أبو حنيفة

# Abū Ḥanīfah

## His Life, Legal Method & Legacy

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# Preface

*About Abū Ḥanīfah*

Abū Ḥanīfah Nuʿmān ibn Thābit (d. 150 AH) is a towering figure in the early history of Islamic law. He was among the first to employ the recognized methods of legal reasoning in a consistent way, and to gather the legal dicta of his time into an organized corpus. The doctrine (*madhhab*) that developed in line with his style of reasoning became the most widely practised school of law in the Islamic world. This was due in part to its being favoured by the ruling dynasties of the most extensive, populous and enduring of the Muslim empires – the ʿAbbāsids, the Ottomans and the Mughals. But in part also it was due to the excellence of the students whom he inspired and trained to carry on his work.

Abū Ḥanīfah was a genius, supremely proficient alike in analysis of detail and reflection on general principles. He combined his passion for knowledge of the religion (and for organizing that knowledge) with an ability to nurture the same passion in others. He was both a researcher and a teacher, a theoretician and a practitioner of the law. Building on the achievement of his predecessors, he schooled his students in particular thoughts and a way of thinking them so that,

over time, his doctrine came to be identified with his name rather than the name of his city (Kufah). However, he could not have commanded the authority that he did if he had not also been exemplary in self-discipline and piety and, as a man, warm as well as virtuous, as familiar to and loved by his neighbours as he was respected and admired by his fellow scholars.

What distinguishes Abū Ḥanīfah from other geniuses in Islamic history is that his achievement still touches the everyday life of ordinary Muslims. Their faith requires them to conduct their worship and general affairs in accordance with God's will as framed by the Qur'ān and the Prophet's teaching. But how, in practice, are they to know how to do that? It is through pioneers in Islamic law like Abū Ḥanīfah that Muslims feel able to answer that question in a way that, because it carries authority, commands voluntary obedience and general acceptance. The alternative to authority is mere assertion, which can command acceptance only so long as it is supported by force of power. Abū Ḥanīfah is famously one of the prominent warriors for the authority of the law set against the power of the state. He suffered imprisonment and whipping for refusing to serve in the new ʿAbbāsid administration, to lend his authority to the decisions of the caliph. Power got its hollow victory in that the caliph, unable to break Abū Ḥanīfah's will, succeeded in having him poisoned.

In the event, jailing him only added to the popularity on account of which the recently established ʿAbbāsid imperial dynasty considered Abū Ḥanīfah a threat. People demanded to consult him even while he was in prison, and they were too many to be resisted. In later times, when the dynasty was secure and when learned Islamic scholars did accept positions within the state administration and so depended for their livelihoods upon the state, they still felt they had a duty to refuse to lend their authority to the will of the government if, by doing so, they would be contradicting or undermining the law. This dedication to the law, intermittently weakened by necessary and

unnecessary compromises, is derived from the pattern of conduct established by Abū Ḥanīfah and other pioneers in the field. In epoch after epoch in the history of Islam, we find that it is the learned scholars of the law, even though few of them individually were of the same mettle as Abū Ḥanīfah, who managed, collectively, to preserve the Islamic character of the society in spite of the state, in spite of armed schisms and factions, betrayals and rebellions from within, and invasions from abroad. Not until the period of European colonization – which systematically weakened the network of relationships that the system of education in the Islamic world depended on, and as a result of which there was a rapid decline in opportunities for adequate training and subsequent employment – not until then, did scholars of the law lose their status and authority in society.

*About this book*

As Muslim peoples begin to waken from this dark period of their history, and wonder how to express their religion in the modern world, it is particularly important to reflect upon what the authority of the law means. In what does it consist? How can it be recognized? The sources tell us that, not long after his death, people in the Islamic world referred to Abū Ḥanīfah as '*al-imām al-aʿẓam*', meaning 'the greatest one worthy to be followed'. In this essay I try to understand how and why he came to deserve that title. It is especially important to do so at this time, for two reasons:

First, there are increasingly strident calls for reform of Islamic ways of life (coming from non-Muslims, which is to be expected, and also from Muslims themselves). Even if the call for reform is well-meant, often its rationale neither begins nor ends in the Qurʾān and Sunnah. Rather, the proposed reform is often concerned to 'face up to modern realities' and to adopt norms and values that have appealed to peoples who have no grounding in Islam at all or have rejected it. Accordingly, Qurʾān or Sunnah – even though both are presented by

God as His special mercy for human beings – are considered as a nuisance, an obstacle, that somehow the reform must talk its way around. Without saying it out loud, proposed reforms of this kind must strongly wish that Qurʾān and Sunnah did not exist or did not have any hold on the hearts and minds of Muslims. By contrast, Abū Ḥanīfah and the other great imāms of the law got their intellectual energy and inventiveness from, and used it within, the boundaries of Qurʾān and Sunnah. Their consistent aim was to help Muslims fulfil their rights and duties to God and to each other, not to evade those rights and duties. For example, many of the tools of 'capitalism' as it is now called, which supported the great expansion of trade and commerce during the high period of Islamic history, were constructed by jurists – Ḥanafīs prominent among them, notably in some works attributed to Muḥammad ibn al-Ḥasan al-Shaybānī – in the form of conscientiously designed contracts that enabled entrepreneurs to extend and exchange credit within the bounds set by God, to strive for profit and avoid usury and other financial and commercial crimes. How different the 'capitalism', and how different its outcomes, when the conscience informing it was neither inspired, nor restrained, by the moral and methodological boundaries of the Qurʾān and Sunnah! (The material is technical and demands a great deal of detailed discussion not suited to an introductory essay; however, the economic ethics of Ḥanafī *fiqh* is a subject that urgently needs to be presented to the general reading public, Muslims especially.)

Second, the proliferation of words and images through the modern means of communication has made it possible to circulate ideas and opinions of all kinds in great volume at great speed. That combination results in strong, but often short-lived, influence – that is, it results in changing immediate 'moods' and 'attitudes', not the structures and habits that underlie more stable and enduring behaviour. Insofar as Islamic law is connected to faith and religion, reflections upon it are properly suited to slow, textual scholarship, not to high-impact sound-

bites and images that TV and Internet output demand. Also, Muslims should think carefully about the provenance of the ideas and opinions that are offered to them, not always anonymously, yet almost always from very far away: we can know what someone *says*, but we cannot know *how they live*. Put bluntly, a non-Muslim, just as well as a Muslim, could read up the texts on a standard *ʿālim*'s reading list, and if energetic and articulate enough, present (on the basis of their reading) moral advice and legal opinions that *appear* to be as 'Islamically argued' as the established ways: they may well be so argued; equally, they may not. In this essay, I have emphasized (just as traditional Islamic scholarship always has) the information we hold about who Abū Ḥanīfah studied with and where, and what kind of man he was, how he lived his life in relation with God and fellow human beings. In his own time, his peers and contemporaries were concerned, and for the best of reasons, just as we now should be, to find out about his background and his backers, to find out if his intellectual brilliance, his breadth of learning, his intelligence and personal charms were complemented by his piety and righteousness. I have tried here to present an account of his life, his legal method and his legacy, in a way that I hope will add up to an image, a memory, a sense of what kind of Muslim one should look to as a trustworthy source for understanding, adapting, amending the legal foundations of an Islamic way of life.

In the introductory first chapter, I explain the context and background of how the law was placed and expressed in the religion. In Chapter 2, I report the anecdotal material recorded in the sources about the life and character of Abū Ḥanīfah. I think it fair to say that much of that material (except when it is obviously polemical) is commemorative. However, it is not therefore unreliable or useless; on the contrary, it is highly relevant to understanding the qualities that are a necessary condition for the authority to pronounce on the law. Chapter 3 describes the establishment of the Kufan school, the methodology and characteristics of Abū Ḥanīfah's *fiqh*. Chapter 4 gives an account

of some of his major works, and how his tradition was transmitted by his famous students. In Chapter 5, following a recapitulation of Abū Ḥanīfah's achievement, I give a brief survey of how his legacy evolved through the development of the Ḥanafī school: this will be difficult for readers new to the subject, because it contains more information than discussion, but I hope it may be useful to those who want to know the principal figures and works of later Ḥanafī jurisprudence. I have added in a 'Postscript' some reflections on the relevance of Abū Ḥanīfah to the present time. Finally, in Chapter 6, I offer a critical account of some of the sources used in the preparation of this essay, followed by suggestions for further reading.

*Acknowledgements*

My debts to earlier studies of Abū Ḥanīfah, as well as being indicated in the text, are acknowledged in the chapter on 'Sources and Further reading'. I would like to thank colleagues, students and others who read through an ealier draft of this book or discussed its contents with me – I have benefited greatly from their criticisms and suggestions. Special thanks to my friend and colleague Jamil Qureshi, who also helped to improve the language and presentation. The faults and shortcomings that remain in the work are my responsibility alone.

*Mohammad Akram Nadwi*
*Oxford, April, 2010*

# 1

# Introduction: background to the first development of the law

By the reign of Hārūn al-Rashīd (170–189), that is, within six generations of its beginning, the rule of Islam extended from the western coast of north Africa, through much of Central Asia, to the Indus, with established commercial relations going further, through the Russian landmass into Scandinavia, and by sea and land routes into China. This vast ʿAbbāsid dominion (Islamic Spain was not part of it) was economically and culturally vigorous, joining within its jurisdiction the peoples of the east and west, peoples of diverse cultural background and attainment, and of diverse ethnic, linguistic, religious and confessional identity. How could what had begun so locally in the Arabian peninsula emerge so soon and then endure so long as a distinctive civilization?

The question is at least partially answered in the fact that Hārūn al-Rashīd felt the need to create the legal–administrative post of Chief Judge to oversee the functioning of the laws throughout the whole realm. The post was made for Abū Yūsuf, one of the two most famous of Abū Ḥanīfah's many famous students. What identified the Islamic world as such, and gave coherence and staying-power to its social order, was its law. Abū Ḥanīfah's achievement can be expressed

briefly as his success in drawing out, more systematically and consistently than anyone before him, what was universal in the injunctions of the Qurʾan and Sunnah. He achieved this without alteration of the known particular laws or subversion of the fundamental principles and temperament of Islam. Rather, as some admirers said, Muslims should pray for Abū Ḥanīfah precisely because the Sunnah, the way of the Prophet, was preserved through him.

The law as evolved in the generation of Abū Ḥanīfah did not enter into Islam from outside – as, in later times, Greek philosophy or various strands of Christian or Jewish or Indian mysticism entered it, then making themselves at home within the Islamic milieu, appropriating the idiom and rites native to that milieu. The law grew, from its anchorage in Qurʾān and Sunnah as understood by particular individuals, into a universality sufficient to make the Islamic milieu capable, on the one hand, of receiving and accepting on its terms already formed traditions like that of Greek philosophy or, on the other hand, of rejecting them outright as it rejected the prestigious, long-enduring traditions of Roman law.

It is right to mention Abū Ḥanīfah as one of the pioneers of the law but he did not, obviously, initiate the process of its foundation. Rather, he realized and directed its potential. To understand what Abū Ḥanīfah contributed to the law, we need to understand how it was evolving up to his time. That is the aim of this chapter. I set out briefly the unique importance of its laws in the religion and social order of Islam; the emergence of scholars as a distinct class; how they accumulated and shared knowledge; how legal and moral authority centred on particular individuals in particular places; how the law was applied and administered, and relations between the state and judges and jurists. Finally, I clarify the meaning of the paired terms 'Qurʾān and Sunnah', and the implications for expertise in the study of *ḥadīth*s and the derivation of laws.

## THE IMPORTANCE OF THE LAW IN ISLAM

In the Muslim perspective, the one certain source of human knowledge about the will of God is His revelation of the Qurʾān. The Qurʾān affirms that other revelation preceded it, and that no other revelation with the authority of law will follow. From the first affirmation was derived the broadly inclusive, assimilative temperament of Islamic civilization in its great period – the behaviour of Muslims in general was not unbalanced by the superiority or inferiority of the other peoples and cultures they met. Those concerned with the evolution of the law had to busy themselves with defining a legal space within Islamic jurisdiction for non-Muslims living under Islamic rule (permanently, or temporarily as commercial or diplomatic travellers), and for local rules and customs (particularly in relation to contracts), which might or might not be conformable with Islamic law. But we will not be dealing directly with this issue. Our main concern here relates to the second affirmation – that no revelation with the authority of law will follow the Qurʾān. We do not need to dispute the truthfulness of reports of dreams and/or other experiences of communication from angels or prophets. We can allow that it may be so. Certainly, instances of such communication – as distinct from revelations to men designated as messengers and prophets to their people – are recorded in the Qurʾān (a famous one is familiar in the Christian tradition as the Annunciation). Nevertheless, it is an axiom of Islamic faith that no communications of this sort, true or otherwise, can have the authority of law. Given that, and given also that the Qurʾān plainly does not legislate for every situation, foreseeable or unforeseeable, how is the law to grow outside of the Qurʾān, and in doing so, what authority does it have?

One might suppose that the ending of divine revelation implied some new opening for human reason – that, at least on matters on

which the Qur'ān was silent, the people could freely exercise their minds, individually or collectively, and legislate for themselves on the basis of their own 'best judgement and experience' at the time, implicitly allowing the same freedom to subsequent generations. But that is not what the early Muslims did. Had they embraced such freedom it would undoubtedly have led to eventual 'reinterpretation' of even those Qur'ānic verses whose legal meaning is clear, so as to alter that meaning and fit it to the 'best judgement' and 'best moral taste' of different times and places. The ending of divine revelation meant, in principle and practice, that no one henceforth could claim divine authority for any amendment or adaptation of the law; they had to argue their case on the basis of a known (and limited) body of texts and practice. On this basis, reason was exercised in public, its authority or persuasiveness accrued in public and it could be publicly challenged. For the overwhelming majority of Muslims, the source of authority was not 'occult', it could not be inherited from association with the Prophet or anyone else; it was acquired and transmitted only through the labour of learning and teaching, reflecting and reasoning.

That said, it is worth emphasizing that this 'public reason' was fundamentally different from what the phrase means in the modern Western tradition. In the latter, reason enjoys more or less complete autonomy; it is constrained, if at all, by the will or mood at the time of the people for the regulation of whose affairs the law is being reasoned. As the will or mood of the people alters so do such fundamentals as who is legally a person and who is not, what is a crime and what is not. In the Islamic tradition on the other hand, while the process of reasoning is not different, reasoning is firmly rooted in the Qur'ān and Sunnah, and cannot cut itself off from those roots – it can only branch off from them.

Many Muslims were very impressed by Abū Ḥanīfah's reasoning, but not all: indeed, even his own students disagreed with him. This can only have been so if praise or blame, acceptance or rejection of his

arguments, occurred against the background of some shared sense of what was Islamic and what was not. It is a matter of record that the first Muslims disagreed amongst themselves about a number of important matters – on the question of political leadership they disagreed to the extent of civil war. And yet, on the question of how the law was to evolve while retaining its anchorage in the revelation, a stable consensus emerged very early on. The reason for this (in contrast to the question of political leadership) is that the foundations for such consensus had been laid during the period of revelation itself. The revelation contained teaching on this question sufficient to meet the needs of Islamic society as it expanded, which it did with spectacular speed. What was this teaching?

First of all, no Muslim was in any doubt of the centrality of the law to Islam. The migration to Madinah was not just an escape from an aggressively hostile environment to a place of refuge where the Muslims would not be persecuted. That was the purpose of the earlier migration of some Muslims to Abyssinia. The migration to Madinah (Hijrah) was the beginning of a movement to build a social and political environment that expressed and enabled Islam as an ethos, a social order. The Islamic era is dated from the Hijrah in recognition of this fact. The contrast with Christianity is instructive: it found its civilizational space within the legal order and the Hellenic heritage of the Roman empire; it was obliged (providentially perhaps) to go through several centuries of compromise with that heritage, the two eventually achieving a reciprocal subversion or conversion. Islam defined its own civilizational space, before it drove into the wider space defined by Romans or Persians. In practical terms, this meant that religious and moral values had to find expression in concrete terms as norms of behaviour and as laws: for example, the value of sobriety is partly expressed in the prohibition of intoxicants; the value of chastity is partly expressed in dress codes; the value of charity is partly expressed in the alms-tax or *zakāh*; the values of fairness and

justice in economic dealings are partly expressed in the efforts to encourage circulation (not concentration) of wealth by forbidding usury, monopoly, hoarding, sheer speculation, etc. How were people to know the right way to give practical expression to such values?

The Qurʾān states (*al-Māʾidah*, 5: 101) that the questions about what God wants of people will be answered while the Prophet is amongst them, that is, while the revelation is on-going. It also states that a certain kind of questioning is reprehensible. Questioning is reprehensible if its intent (conscious or not) is to evade the responsibility to find out how to live in the way that God wills. Such questioning may seek sophistication of religious dogma, subtle (and usually difficult) ways to fine-tune the phrases that express what it is that one believes. Or it may seek elaboration of the detail of ritual obligations, making them more burdensome and also obscuring their purpose. An example of the latter is narrated at length in the second sūrah of the Qurʾān, the narrative concluding (2: 71) with the observation that the people, under the guise of trying to do it perfectly, had all but not done the thing they were commanded to do (*wa mā kādū yafʿalūn).*

During the period of revelation, people could put their questions to the Prophet himself. Sometimes, their questions were addressed directly in the Qurʾān, more often the particular situation they were living through, their attitudes and actions, were commented upon. More often still, the questions put to the Prophet were answered by him. The Qurʾān named him as the man of noble character (*al-Qalam*, 68: 4), whom the Muslims should seek to emulate, and as the judge (*al-Nisāʾ*, 4: 65) to whom they should submit disputes for arbitration; then, when their hearts fully accepted his arbitration with no reserve of doubt or resentment, it was a sign that that their faith in God was secure. Many of the close disciples (Companions) of the Prophet achieved this degree of secure faith, the acceptance that his way embodied the Qurʾān in the practical form most suited to it.

The Qur'an was given to the Prophet by his *hearing* it; with it came the explicit command not to hasten his tongue in the utterance of it, nor to be anxious about remembering it: God promises to prepare his heart for it, to preserve it fully, and to guarantee its exposition (*al-Qiyāmah*, 75. 16–19). Hearing (unlike sight) involves a direct presence of the message in the listener's body, which prompts, in the first instance, an adjustment to that sound. After sufficient recurrence, combined with receptivity on the part of the hearer (willingness or need to pay attention), that adjustment grows into 'attunement'. The process may be understood by analogy with how children acquire language. After sufficient exposure to speech, a child's ear can process, and its vocal apparatus reproduce, sounds, tones and meanings of astounding complexity. Most children can, after three years or so, hear and use their mother tongue correctly. They can also distinguish failures in its rules, that is, they can distinguish right from wrong usage. It is this degree of 'attunement' that Muslims mean when they affirm that the dicta and deeds of the Prophet constitute the authoritative exposition of the Qur'ān – in the brilliant aphorism (attributed to his wife ʿĀ'ishah), 'his character was the Qur'ān'.

Those who were close to the Prophet for all or most of the period of revelation became 'attuned' to the Qur'ān through their attentiveness to the Sunnah, their striving to follow the Prophet in his precepts and practice. Sometimes they asked him questions about what they should do, and how they should do it. Sometimes the Prophet on his own initiative expressed approval or disapproval of what he saw people doing. Many rulings were given in public, typically from the Prophet's pulpit in Madinah. But people also came to consult the Prophet in private, in small groups or individually. Those who heard from the Prophet would take note of what he said, either in memory or, in some cases, in writing to aid memory. Accordingly, when the corpus of the teachings of the Prophet came to be formally compiled, it emerged that some of his sayings (*hadīths*) were transmit-

ted in near-identical wording by many from many, others were transmitted in variant wordings from different groups of Companions, and still others were reported on the authority of a single Companion.

Language users know, and know how to apply, the rules of their language; however, without specialized training they cannot transmit to others those rules as such, only the usages governed by those rules. The Prophet was favoured with knowledge and the power to convey that knowledge, the teachings of Islam, to people for whom Islam was not, as it were, their first language. He recognized in a small number of his Companions that they had imbibed from him, as well as knowledge of particular injunctions, a strong, inward sense of the general principles and temperament of Islam. He felt able to entrust them to act as judges and give Islamic rulings for the people on his behalf. The famous names among this group of Companions are: Abū Bakr al-Ṣiddīq, ʿUmar ibn al-Khaṭṭāb, ʿUthmān ibn ʿAffān, ʿAlī ibn Abī Ṭālib, ʿAbdullāh ibn Masʿūd, Muʿādh ibn Jabal, Ubayy ibn Kaʿb, Abū l-Dardāʾ, Zayd ibn Thābit, Abū Mūsā al-Ashʿarī, ʿAbd al-Raḥmān ibn ʿAwf, Ḥudhayfah ibn al-Yamān, ʿAmmār ibn Yāsir, Abū ʿUbaydah ibn al-Jarrāḥ, and ʿĀʾishah, the wife of the Prophet. Their legal dicta are quoted and preserved in compilations of *ḥadīth*; in particular, the judgements of the first four in that list (the first caliphs) were accorded practically the same status as the Sunnah of the Prophet himself. The qualities that the Prophet found and approved in these Muslims were qualities that later generations looked for in those whom they would call 'imāms', men worthy to be followed. Those qualities, built upon 'attunement' to the general principles and temperament of Islam, were consistent dedication in their personal bearing and conduct to well-being in their relations with God (piety) and people (righteousness). Furthermore, they combined piety and righteousness with the necessary intellectual competence to distinguish and pursue Islamic values within the realties of this world without becoming so distracted or distressed by its demands as to betray those values. The Prophet was

confident in the ability of his close Companions to exercise conscience and reason on behalf of the law, and not for personal advantage or for the advantage of any group or interest with which they were associated. He promised them a reward hereafter for the effort to apply and extend the law in the situations they faced, and a double reward if their judgements proved right.

The significance of piety and righteousness among the qualifications for reasoning with the law should not be underestimated. In later centuries, when the compendia of biographical sketches of the Companions and their successors were compiled, their personal reputations remained the most prominent element. They are praised for the quality of their *islām*, that is, the quality of their self-transcendence expressed as surrender to the will of God, their obedience and love of Him and of His Messenger. In modern idiom, this quality translates as the capacity to balance short-term interests with long-term ones: they had to balance the need to resolve the immediate problems and disputes before them against the need to preserve the ethos of Islamic society for future generations. The *islām* of the Companions and their students, and those who followed them in their service of the law is the strong weight in Islamic history, counterbalancing the centrifugal tendencies (focused in the leaders of political or doctrinal or religious factions) which, in various degrees, tried to 're-invent' Islam to suit the advantage (or simply the tastes or local habits) of their clan or tribe or sect. So long as service of the law remained disinterested (i.e. was bound by duty to Islam and its primary sources) it was patient, even relatively comfortable, with diversity in interpretation and practice. That is why, even long after the different schools had been well-consolidated, and there was a tilt towards preserving and promoting the distinguished figures and books of a particular school or sect, Islamic law retained a good deal of its symbolic and practical power to hold the Muslims together in a shared cultural space.

## AFTER THE DEATH OF THE PROPHET

After the death of the Prophet, the territories to which the law had to be extended expanded rapidly. During the rule of ʿUmar, Greater Syria, Iraq, the major provinces of the Persian empire, and Egypt came under Islamic rule. Large numbers (especially among the Arabic-speaking people of Iraq and Syria) embraced the faith and new cities were founded. Many of the Companions left Madinah and settled in other cities to teach, and to give rulings and judgements to order the people's affairs. The number of Companions referred to for the purpose of interpreting and applying the law reached 120 according to Ibn Ḥazm (d. 456). ʿUmar took particular care to appoint in every major city learned Companions who were competent to teach the Qurʾān and the Sunnah, and to uphold the law. The most eminent among those appointed by him were Abū l-Dardāʾ in Syria, and ʿAbdullāh ibn Masʿūd in Kufah. The Muslims of the different regions followed the Companion teachers of their cities in recitation of the Qurʾān, and the rites of worship, and also in the moral and legal ordering of their everyday transactions. Given the speed and the scale of expansion, it was inevitable that the Companions faced situations that elicited different responses from them. This was in part because they were acting in different localities, in part because their individual efforts of conscience and reason were, though equally dedicated, differently attuned to Qurʾān and Sunnah. Later generations explained the differences as resulting from the Companions' following different methods of interpreting the law.

Just as people had gathered around the Prophet to learn from him, so too people gathered around the Companions, and stayed with them – some for decades – as their students. This generation, known in the tradition as the *tabiʿūn* (the followers or Successors) learned from the Companions their stock of *ḥadīths*, and their methods of

applying that knowledge, i.e. their *fiqh*, their ways of understanding the *ḥadīth*s as law. The most widely famed among the Successors were the seven jurists of Madinah. They were: Saʿīd ibn al-Musayyab (d. 98), ʿUbaydullāh ibn ʿAbdillāh ibn ʿUtbah ibn Masʿūd (d. 98), ʿUrwah ibn al-Zubayr (d. 94), al-Qāsim ibn Muḥammad ibn Abī Bakr (d. 106), Abū Bakr ibn ʿAbd al-Raḥmān ibn al-Ḥārith ibn Ḥazm (d. 94), Sulaymān ibn Yasār (d. 120), Khārijah ibn Zayd ibn Thābit (d. 100). Besides them, there were other greatly respected scholars who attracted a very large body of students: ʿAlqamah (d. 62; Kufah), al-Aswad (d. 75; Kufah), Sālim ibn ʿAbdillāh ibn ʿUmar (d. 106; Madinah), Ibrāhīm al-Nakhaʿī (d. 96; Kufah), ʿAṭāʾ ibn Abī Rabāḥ (d. 114; Makkah), Ḥasan al-Baṣrī (d. 110; Basrah). During this period personal collections of *ḥadīth*s and *āthār* (reports of the judgements of the Companions) were increasingly set down in writing, and circulated. As students travelled between teachers, and mixed in different places, they exchanged this knowledge with each other. The more scholarly of them began to take note of who had transmitted what from whom, and this academic apparatus supporting *ḥadīth*s and *āthār* became a part of the knowledge that was circulating ever more widely. Already among the students of the Successors, distinctions (if not yet specializations) were emerging, between those who knew and memorized and transmitted *ḥadīth*s, and those who derived the law from them – those who were good in *ḥadīth* and those who were good in *fiqh*. This was an inevitable process, given the increasing distance from direct knowledge of the Sunnah and the increased opportunities for reflection, critique and general professionalization of teaching that came about as the mode of learning shifted from mainly hearing texts to also seeing them.

With the students of the students of the Successors, we reach the generation of Abū Ḥanīfah. In this generation, leadership in the domain of *fiqh* in Kufah passed to Abū Ḥanīfah, in Greater Syria to al-Awzāʿī, in Madinah to Mālik ibn Anas, in Makkah to Ibn Jurayj, and in Egypt to Layth ibn Saʿd.

## THE EMERGENCE OF ISLAMIC SCHOLARS

As the generation of Companions died out around the middle and later part of the first century AH, their students, and then theirs in turn, emerged as a distinct class within the community devoted to the preservation, transmission and understanding of the knowledge of the Companions. In Makkah, Madinah, Kufah, Basrah, Damascus, Egypt, Yemen and other centres of Islamic learning, the scholars (*ʿulamāʾ*) gathered, discussed and disseminated the materials used by themselves and subsequent generations of scholars to establish the developing corpus of Islamic law. In spite of civil wars and the emergence of schisms of both a religious and political nature, no one disputed the text of the Qurʾān or its authority. But, as explained above, for the practical effectiveness of the Qurʾān, preservation and transmission of the Sunnah was indispensable. The scholars who devoted their lives to that task became a focus of moral authority, distinct from, though not necessarily in opposition to, the power of the state, and its appointed governors and officers.

Travelling in search of knowledge is strongly urged in a number of the Prophet's sayings. Some of the Companions undertook long journeys either to learn a *ḥadīth*, or to refresh their memories of it. Abū Ayyūb, for instance, travelled from Madinah to Egypt just to refresh his memory of the wording of a *ḥadīth* that he – in the company of ʿUqbah ibn ʿĀmir – had learnt from the Prophet himself. Jābir ibn ʿAbdillāh travelled for a whole month to hear confirmation from ʿAbdullāh ibn Unays of a *ḥadīth* that he (Jābir) had already learnt through another person. Similarly, another Companion went from Madinah to Damascus just to hear from the lips of Abū l-Dardāʾ himself a *ḥadīth* that he had already received indirectly through an associate of Abū l-Dardāʾ. The pilgrimage to Makkah is a religious obligation for all Muslims: the stops on the journey to Makkah, as

well as the pilgrimage itself, provided many opportunities for scholars to visit and meet one another and exchange knowledge.

The example of the Companions deeply impressed the Successors, who came to study with them. They too travelled extensively throughout the expanding Islamic world to gather knowledge of as many *ḥadīth*s as possible and returned home like bees laden with honey to impart their precious store to crowds of other eager students. Makḥūl (d. 112) travelled through Egypt, Syria, Iraq and the Hijaz, and gathered all the *ḥadīth*s that he could from the Companions who still lived in those places. Al-Shaʿbī (d. 104) said, when asked how he had acquired knowledge of so many *ḥadīth*s: 'By hard, long travels, and great patience'. He used to say that if for the sake of only one word of wisdom anyone travelled from one end of Syria to the corner of Yemen, he should consider his journey to have been worthwhile. Such journeys became increasingly popular.

These travelling scholars were mostly poor. A few of them were independently wealthy – among these few were Abū Ḥanīfah, Layth ibn Saʿd, and ʿAbdullāh ibn al-Mubārak. The overwhelming majority depended on their families to support them by sending money. If they had difficulties in receiving money they would borrow, through their teachers, from some rich people and repay the loans when they could. They also supported themselves, as far as they could, by doing part time work, most typically copying. Many copyists' shops were owned and run by scholars. As the demand for books grew with the increasing prosperity in the cities of the Islamic world, so too did the number and size of the copying 'factories'. Some of them employed as many as two hundred copyists. A copyist in the second century after Hijrah earned one-tenth of a dirham for copying a single page; by the following century, the rate had increased to one-fifth of a dirham. It was first of all the demand for copies of the Qurʾān (and, later, of the *ḥadīth*s of the Prophet) that led to the crafts of writing and binding books becoming well established in all the major cities of the Islamic world.

Both expensive and cheap materials for writing were readily available in the market. Parchment and papyrus, used in the earliest period, were gradually replaced by paper. Paper was initially imported, and then manufactured locally: production in Baghdad is recorded from the second century AH. From this time on, paper was available as a relatively cheap writing material, a factor favouring the emergence of the *warrāqūn* as a professional group.

In the earlier period, however, circumstances were not easy for students of the Qur'ān and Sunnah. There are anecdotes of difficult sacrifices and hard times endured: some had to sell off parts of their homes or lands and other possessions in order to sustain themselves in their quest for knowledge. Many endured privations in food and clothing. However, there was such respect in the society for this knowledge that many were willing to support the students in their efforts to acquire it. Abū Ḥanīfah financed many of his own students, Qāḍī Abū Yūsuf and his family for example, as well as other scholars of his time. So too did Layth ibn Sa'd and 'Abdullāh ibn al-Mubārak.

The masjid (mosque) was, and indeed remains, central in the life of the Muslim community, and so it was in the masjids that most teachers held their classes, although a few did also teach in their homes. In the bigger city masjids many classes were held, with the teachers seated at different pillars of the building. It is a common expression in histories and biographical dictionaries that so-and-so sat at one of the pillars of such a masjid to teach. Students' moving from one pillar to another meant their moving from one class to another. Occasionally parks, or the open spaces outside governors' palaces, were used for the very large number of students (some reports say thousands) who gathered to hear the most famous and highly regarded teachers.

## THE ROLE OF SCHOLARS AS JUDGES AND JURISCONSULTS

For answers to questions about what was right and lawful in Islam, the people referred to the known scholars of their time and locality, while in their disputes they would refer to the local judges (qāḍīs). The domain of responsa or fatwas was known as *iftā*ʾ, and that of litigation as *qaḍā*ʾ. These two domains overlapped smoothly for the most part. *Qaḍā*ʾ was the more regulated of the two, because the governors would not appoint (and pay) someone as a judge unless his reputation for knowledge of the law and his piety were sufficient to make his decisions acceptable. The judges dispensed justice in public courts, and their verdicts were enforced by the police *(shurṭah)*. Such verdicts were considered as binding. Even in those cases where there might be difference of opinion, once the judge had, for his reasons, given his verdict, all scholars agreed that it must be accepted. Governors faced many difficulties in getting the best-known and most pious scholars to serve as judges. Abū Ḥanīfah refused such a post more than once; his refusals caused him many problems, and eventually his life.

For complicated issues, the judges would consult other well-known scholars, or call a meeting of jurists in the court or at their houses, and there debate the problem. In the early period almost all judges were established teachers with a large number of students calling on them. This teaching activity enabled their verdicts to pass quickly, via the students who recorded them, to other scholars and judges. In this way, there was both much lively discussion and prompt rectification of mistaken judgements.

Legal procedure for adversarial cases, rules of evidence, binding verdicts, and state enforcement, fell within the domain of *qaḍā*ʾ. By contrast, the discussion and judgements of points of law within the domain of *ifta*ʾ were and remained always non binding. The muftīs (jurisconsults) generally held themselves aloof from the state, but not

absolutely or universally. Some were persuaded to serve in the judicial administration, and the activity of giving fatwās acquired a public and official character. In Umayyad times (41–133) some muftīs served as consultants to qāḍīs and also issued fatwās at the request of provincial governors and sometimes at the request of the office of the caliphate in Damascus. Saʿīd ibn al-Musayyab, the great imām of Madinah, and later Ibn Shihāb al-Zuhrī, received many such requests. These great scholars, in several instances, criticized the political establishment quite forcefully, and did so without fear, despite being threatened with death. It is not surprising, in view of the increasing importance of *iftāʾ* as a source of religious legitimacy, that state governments sought to establish a measure of control over it. They mostly failed because those scholars who were qualified to give fatwās, understood very well the gravity of doing so, and feared having to answer for their judgements in the hereafter. Imām Mālik, for example, famously said: 'I did not sit for giving fatwās until seventy people from among my teachers swore to me that I was qualified' (al-Nawawī, *Adab al-muftī*, 32).

It is therefore broadly correct to say that the role of the muftī was independent of the state, and barely institutionalized at all. The scholars who served the people in this way in the early centuries of Islam operated privately and without ties to the political authorities. Even in later centuries, when senior scholars in some cities did accept salaried appointment to do this work, they did so because it was, at the time, in the greater interest of the society that they served the state than that they did not. The significance of their work whether private or public rested on the high degree of moral authority carried by their opinions. It is important to note that fatwās, typically concerned with the more practical aspects of the law, were diverse in format and content, and reflected the individual style of the muftī and his level of juristic knowledge and proficiency. More particularly, in the later period, it is fairly common to find fatwās referred to earlier fatwās as their legal authority, rather than to the primary sources with

fresh argument from the latter. This is, as we shall see, a practice that Abū Ḥanīfah anticipated and disapproved: he did not permit students to cite him as their authority unless they knew his argument, which entailed their knowing his sources and understanding his reasoning with them.

As the corpus of substantive law and jurisprudence grew, accruing multiple levels of commentary and authoritative summaries, the accumulation of fatwās issued in diverse social and historical contexts, served, no less than the verdicts of qāḍīs, to stimulate the evolution and adaptation of the law to meet the need of Muslim communities in different locales and epochs. Distinct schools of law gradually became settled, drawing on the habits of reasoning of their founders, but with set texts and curricula and a quality of formalism that the founders can scarcely have imagined, still less sanctioned. For various historical reasons that cannot be entered into here, some schools, despite being widespread and popular at one time, ceased to be followed. Among the orthodox Sunnī community (roughly ninety percent of all Muslims), four schools have survived to the present day, of which the most popular is named after Abū Ḥanīfah.

## 'QURʾĀN AND SUNNAH': A CLARIFICATION

Before I go on to give an account of Abū Ḥanīfah's life and his contribution to the evolution of Islamic law, a clarification of the phrase 'Qurʾān and Sunnah' is necessary. The joining of the terms with a simple 'and' is justified by the common Qurʾanic expression 'God and His Messenger', usually found after the imperatives 'obey' or 'love'. However, the pairing of the two does not signify any kind or degree of parity between them. For Muslims, the Qurʾān is without doubt the Book of God, and the Sunnah is without doubt that Book 'opened out' into this world, ideally practised and embodied. That said, the two have never been confounded in the Islamic tradition. For Muslims, only the Qurʾan holds the degree of awe and majesty

befitting the word of God; human beings (the Prophet included) are required to measure up to it, and never the other way around. The recitation of its verses is an indispensable element of the formal rite of congregational prayer; by contrast, the words of the Prophet (as well as those of the Qurʾān) are used in informal, private supplications, and as such appended to the prayer rite, but distinct from it. To a Muslim 'the Book' or 'Scripture' means the Qurʾān; it never means the Sunnah.

Indeed, the Sunnah, strictly speaking, is not synonymous with *ḥadīth* texts, which were once a convenient, and are now the only surviving, record of it. Initially, the Sunnah meant the way the Prophet understood and lived the Qurʾān, which the Companions had learnt from his teaching them. When they heard words from him, they knew – as everyone knows when they hear speech directly, from the context of the occasion, from the tone of voice, from an array of non-verbal signals – how to distinguish command from counsel, the more important from the less important, the essential and universal from the contingent and local. By the mid first century AH many of the Companions had died; by the end of that century so too had most of their students, the Successors. Their students, as I noted above, relied more than their teachers had, on written records of the Sunnah or *ḥadīth* texts, to assist their memorization and understanding of them. Inevitably, they carried these recorded texts with them from teacher to teacher. For all the principal matters of faith, rites and everyday transactions, there was a large number of *ḥadīth*s, widely known and accepted as *ṣaḥīḥ* (authentic), with negligible variation in their meaning or even wording. Abū Ḥanīfah, who had turned to the study of Islamic law at this critical juncture in its history, relied extensively upon such *ḥadīth*s. But, besides this core of famous *ḥadīth*s, there were also many other texts circulating, and the variations among them became apparent to the Successors' students when they compared notes from different teachers in different cities. As we shall see, Abū

Ḥanīfah, if uncertain of the authenticity or legal import of a particular *ḥadīth*, would (as did many of his peers at the time) resort to what was in his judgement the argument closest to the general principles, spirit and temperament of 'the Qur'ān and Sunnah'. The less clear-headed among his contemporaries misunderstood his resort to argument as a preference for reasoning over *ḥadīth*s, and some later polemicists referred to him negatively as one of *ahl al-ra'y* ('the people of opinion') in contrast to *ahl al ḥadīth* ('the people of *ḥadīth*').

It was about the time of the death of Abū Ḥanīfah that *ḥadīth* criticism began to emerge as a distinct specialization, and some seventy years after his death that *ḥadīth* experts were able to compile and circulate definitive collections of *ṣaḥīḥ ḥadīth*s, with a textual history of each *ḥadīth* and a record of the variora associated with it. The achievement of these experts in sifting and cross referencing hundreds of thousands of reports and the biographies of their reporters, then distinguishing, organizing and, with scrupulous accuracy, recording all the *ṣaḥīḥ* texts they could find, is stunning, even by the most rigorous standards of modern scholarship. One result of this professional presentation of *ḥadīth* texts was that people could henceforth speak of 'books' of the Sunnah. Another was that, since the *ḥadīth*s in the books were reliable, and the word of the Prophet was law, in theory anyone could adduce a *ḥadīth* to support a legal ruling or a fatwā. In practice the issue was complicated by the fact that some *ḥadīth*s had no legal import, and of those that did some were inconsistent with others. Sub-disciplines within *ḥadīth* studies arose to re-establish the link between *fiqh*, the understanding of the Sunnah as law, and the texts which reported the Sunnah. The *ḥadīth*s valued for moral instruction were distinguished from those of legal import; among the latter, the local and specific had to be distinguished from the general and universal; to arrive at a judgement several texts had to be considered together; those that differed had to be reconciled; where reconciliation proved impossible, the scholar had to make a judgement on balance,

to prefer one *ḥadīth* to another. The only reliable route to such 'judgement on balance' was, again, to find the argument closest to the general principles, spirit and temperament of 'the Qur'ān and Sunnah'.

Over the centuries, expertise in *ḥadīth* and *fiqh* have tended to drift apart, perhaps never more so than in the present time. Also, piety and righteousness, the essential qualifications of an Islamic scholar, have receded from the public domain or lost their authority in it. Insofar as this essay may be said to have a message for the present it is this: for the law to be effective in Muslim societies, its guardians and practitioners need to recover both the intellectual ability, and the moral authority, to understand the Qur'ān and Sunnah as a whole, and not just in their parts. The merit of professionalism in any sphere of life is that it makes particular tasks more efficient, often raising the standard of performance. The danger of it is that the professionals are often constrained by their position in the team and by the standards and rules of procedure set down for them, and so unwilling or unable to go back to first principles and test, against those principles, their work and that of the team as a whole. The gain in efficiency is at the price of a loss in moral agency – the choosing what to do and how to do it, and taking responsibility, not just for the execution of particular allotted tasks, but for the whole outcome of which those tasks are a part. Abū Ḥanīfah was not a Ḥanafī, still less a professional Ḥanafī jurist, in this narrow sense: he lived too early in the history of Islamic law for that. Rather, he combined great intellectual gifts and piety with almost unfailing ability to remain attuned to Qur'ān and Sunnah, to keep them in mind in every question of detail that was put before him. With the faculties and opportunities that God gave him, he took full responsibility for his thoughts, ideas and actions on behalf of Qur'ān and Sunnah: his contemporaries and peers (some crude polemicists aside), and generations of Muslims ever since, have revered him for preserving the way of the Prophet and preventing the erosion of its role as the controlling ethos of Islamic society.

# 2

# His life

## NAME AND ANCESTRY

The *kunyah* by which Abū Ḥanīfah is known is a mystery. We do not have information about any descendant of his named 'Ḥanīfah'. It is possible that a daughter named Ḥanīfah died so early in infancy that people did not mention her. It is also possible that someone made up the *kunyah* on an occasion when it seemed appropriate and thereafter it just stuck and became accepted usage.

Abū Ḥanīfah's proper name – al-Nuʿmān ibn Thābit ibn Zūṭā ibn Māh al-Taymī – makes it clear that his ancestors were non-Arab. His grandson, ʿUmar ibn Ḥammād, states that he (Abū Ḥanīfah) was a son of Thābit, the son of Zūṭā ibn Māh from Kabul, who was owned by Banū Taymullāh ibn Thaʿlabah (a clan of Rabīʿah, a branch of the major tribe Bakr ibn Wā'il). Then this Zūṭā ibn Māh embraced Islam and was freed; Thābit was born a Muslim. Ismāʿīl, another grandson of Abū Ḥanīfah, said: 'I am Ismāʿīl ibn Ḥammād ibn Nuʿmān ibn Thābit ibn Nuʿmān ibn Marzubān. We come from Persia and have never been in any slavery' (Baghdādī, *Ta'rīkh*, xiii. 326). Because Ismāʿīl held the post of judge in Basrah and was a highly reliable, respected figure, later scholars have generally preferred his version. However, we should be

aware that ʿUmar ibn Ḥammād's version of his ancestry is by no means improbable. In the early period of Islam several of the most revered authorities in *ḥadīth* and *fiqh* were former slaves or their descendants for example ʿIkrimah (d. 104), Ṭāwūs al-Yamānī (d. 106), Ḥasan al-Baṣrī (d. 110), Muḥammad ibn Sīrīn (d. 110), Makḥūl (d. *ca.* 110), ʿAṭāʾ ibn Abī Rabāḥ (d. 114), and Nāfiʿ (d. 117).

Ismāʿīl gives the name of Abū Ḥanīfah's grandfather as Nuʿman, and of his great-grandfather as Marzubān, instead of the much commoner Zūṭā and Māh. Probably 'Zūṭā' became 'Nuʿmān' when he became a Muslim. 'Māh' and 'Marzubān' are honorifics rather than personal names. Zūṭā's father was called 'Marzubān', meaning 'noble of the town'; 'Māh' means 'great'. This indicates that his family enjoyed respect and prestige in their city of origin. What that city was we cannot know with confidence: different sources suggest different places. It is reasonably certain that the family was of Persian origin. Persia (Iran), since the time of ʿUmar, had been under Islamic rule, and Islam spread there as in other parts of the newly conquered territories. After Zūṭā embraced Islam he migrated to and settled in Kufah, which the then caliph, ʿAlī, had made his capital.

According to Arab custom, the strangers needed to establish an alliance with one of the local tribes. For that reason, we assume that Zūṭā may have allied himself with the Banī Taymullāh, a strong clan settled in Kufah. This kind of alliance in Arabic is referred to as *wilāʾ*, from which is derived the word *mawlā*, which can mean 'slave' as well as 'freedman' or 'ally'. The word *mawlā* may have given rise to the notion that Zūṭa had been a slave, which Ismāʿīl, Abu Ḥanīfah's grandson, found it necessary to clarify by rejecting that his family had ever been enslaved.

Thābit, Abū Ḥanīfah's father, was born in Kufah. Zūṭā brought him to ʿAlī, who prayed for him and his descendants (Dhahabī, *Siyar,* vi. 395). Nothing is known of Thābit, except that he was a prosperous silk merchant, the owner of a successful shop in Kufah.

Abū Ḥanīfah was born in 80 AH during the reign of the Umayyad caliph ʿAbd al-Malik ibn Marwān (r. 65–86). At that time a small number of the Companions of the Prophet were still living. Among these were ʿAbdullāh ibn Abī Awfā (d. 87), who was in Kufah; Sahl ibn Saʿd (d. 88); al-Sāʾib ibn Yazīd (d. 91); Anas ibn Mālik (d. 93), the famous narrator of *ḥadīth* who later settled in Basrah; Maḥmūd ibn al-Rabīʿ (d. 99); Abū l-Ṭufayl ʿĀmir ibn Wāthilah (d. 102 in Makkah) was the last Companion to die. Abū Ḥanīfah did not study with or narrate *ḥadīth*s from any of the Companions. Major experts of *ḥadīth* and historians agree, however, that he had *seen* some of them. This means that, at least technically, he was a *tābiʿī* or Successor, an honour not shared by other great pioneers of *fiqh* among his contemporaries, such as al-Awzāʿī (d. 157), Sufyān al-Thawrī (d. 161), Layth ibn Saʿd (d. 175), and Mālik ibn Anas (d. 179).

*Ḥadīth* scholars do not confirm the claims, found in a number of Abū Ḥanīfah's biographers, that he reported from the Companion, Anas ibn Mālik. The *ḥadīth* critic and expert, al-Dāraquṭnī (d. 385) said: 'Abū Ḥanīfah saw Anas with his eye, but he did not hear [*ḥadīth*] from him' (as cited in Suyūṭī, *Tabyīḍ*, 4). The great majority of experts in the field confirm that Abū Ḥanīfah saw Anas but did not study with him or hear *ḥadīth*s from him.

## EARLY EDUCATION

Abū Ḥanīfah grew up in Kufah. He learnt the Qurʾān by heart in childhood, following the recitation of ʿĀṣim, the narrator of the most popular among the seven accepted ways of reciting the Qurʾān. His love for the Book was vigorous throughout his life – he never left off reciting it in his nightly devotions, studying it and constantly reflecting upon it to deepen his understanding.

It appears that, for a time, he broke off his studies of the *ḥadīth* and *fiqh* in order to help his father in his business. Then an incident happened that changed the direction of his life. He recounts it himself:

One day, I passed by [ʿĀmir] al-Shaʿbī who was seated. He called me and asked: 'Where do you go?'. I named a merchant whom I was going to see. 'I did not mean [your going to] the market,' al-Shaʿbī said. 'Rather, I meant calling upon scholars.' I said: 'I hardly ever call upon them.' Then al-Shaʿbī said: 'You ought to study knowledge [i.e. of the religion] and sit in the company of learned men. I discern signs of intelligence and energy in you.'

His advice struck my heart, and I left off turning to the market, and turned to learning. Thus God, Exalted is He, benefited me by his advice. (Makkī, *Manāqib*, i. 59)

Al Shaʿbi was an eminent Successor and is counted as the most senior of Abū Ḥanīfah's teachers. Following this meeting with him, Abū Ḥanīfah launched himself with earnest into scholarly preparation. Some sources suggest that he was drawn first of all to what later came to be known as *kalām* (dogmatics or theology), and took an active part in the controversies among representatives of different sects such as the Khārijīs and the Muʿtazilīs. For reasons to do with his business, he had frequently to visit Basrah, then the main forum for all the contending schools, more particularly the Khārijīs. Abū Ḥanīfah fought many battles of wit with members of different groups of Khārijīs, refuting the heresies alleged of them. He acquired a general reputation for sharpness and brilliance in such debates.

However, as his understanding matured, Abū Ḥanīfah grew out of this interest in *kalam*. It is narrated by himself, in a report from his student, Zufar:

I studied *kalām* until I reached a stage when fingers were pointed to me [i.e. I became well known]. We used to sit close to a study circle of Ḥammād ibn Abī Sulayman. About this time a woman came to me one day and asked: How can a man divorce his wife in accordance with the Sunnah? I advised her to ask Ḥammād and then to come back and tell me the answer. She asked Ḥammād, who told her: the man should divorce his wife once when she is clean [i.e. not in the state of menstruation], then he should leave her be until her *ʿiddah* [waiting period] has passed. When she has bathed and is clean she will be able to re-marry. The woman returned and told me what answer Ḥammād had given her. I said:

there is no need for me in *kalām*. I took up my shoes and joined Ḥammād's class. (Baghdādī, *Ta'rīkh*, xiii. 333)

Abū Ḥanīfah thus turned from specializing in *kalām* to specializing in *fiqh*. He appears to have realized, abruptly, that it would be better for him to acquire the knowledge that could benefit his fellow-Muslims in a practical way.[1]

## TRAINING IN *FIQH*

When Abū Ḥanīfah decided to learn *fiqh*, he chose Ḥammād ibn Abī Sulaymān al-Kūfī (d. 120) as his teacher. Ḥammād was a famous imām and the acknowledged master of *fiqh* in Kufah. He had heard *ḥadīth*s from Anas ibn Mālik, Ḥasan al-Baṣrī, Saʿīd ibn Jubayr, Abū Wā'il, Saʿīd ibn al-Musayyab, ʿĀmir al-Shaʿbī and ʿAbdullāh ibn Buraydah. He studied *fiqh* with Ibrāhīm al-Nakhaʿī, accompanied him as his most prominent student, and succeeded as the head of his school after his death. This school, the most popular in Kufah, counted among its students men of the eminence of Misʿar ibn Kidām, Sufyān al-Thawrī, Shuʿbah ibn Ḥajjāj, Ḥammād ibn Salamah, ʿĀṣim al-Aḥwal, al-Mughīrah ibn Miqsam and Abū Isḥāq al-Shaybānī. As well as being blessed in the quality of his teachers and students, Ḥammād was wealthy so that he was able to devote his time fully to his teaching.

Abū Ḥanīfah remained close to Ḥammād for 18 years until the latter's death in 120 AH. From this we calculate that when Abū Ḥanīfah joined Ḥammād's school he was twenty-two years old. Though he

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[1] Al-Dhahabī (*Siyar*, vi. 398) rejects the notion that Abū Ḥanīfah started his studies with *kalām*. He says: 'We do not know that *kalām* existed at that time.' Now he may be right to deny the existence at that time of *kalām* as a formal science, but theological arguments and the existence of Khārijīs, Shīʿīs and other sects at the end of the first century cannot be denied. Abū Ḥanīfah's participation in debates with these sects and groups may have been exaggerated by some commentators to the extent that later historians interpreted it as his specializing in *kalam* before turning to *fiqh*.

attended the teaching sessions of other jurists (mentioned below), there is no doubt that Abū Ḥanīfah received his training mainly from Ḥammād.

As *fiqh* and *ḥadīth*, especially in that period, were much more inter related than later, Ḥammād and other jurists while teaching *fiqh*, would as a matter of course narrate *ḥadīth*s of the Prophet and the practices and rulings of Companions and Successors. Abū Ḥanīfah's *Kitāb al-Āthār* contains a great number of the reports that he received from Ḥammād and others. That said, there were some teachers in Kufah and elsewhere at that time who devoted themselves almost exclusively to the narration of *ḥadīth*s. One can therefore say with considerable confidence that Abū Ḥanīfah, in the course of his training, was learning *ḥadīth* and attending the classes of the famous teachers of *ḥadīth*. Kufah was, along with Basrah and Madinah, a major focus for the evolving disciplines of the Islamic sciences. The Caliph ʿAlī had made the city his capital. It is reported that over one thousand Companions – including twenty-four who had participated in the battle of Badr by the side of the Prophet – came to Kufah, and most of them then settled there permanently (Ibn Saʿd, *Ṭabaqāt*, vi. 9). Their presence engendered much popular interest in the learning, transmission and understanding of *ḥadīth*. The great *ḥadīth* expert, Sufyān ibn ʿUyaynah, used to say there were three important centres for learning: Makkah for rites of ḥajj, Madinah for reading of the Qurʾān, and Kufah for what was lawful and unlawful, that is to say, *fiqh*. (Haytamī, *Khayrāt*, 103)

As was mentioned earlier, the Companions had settled in different cities of Islam. In order to collect the *ḥadīth*s of the Prophet from them, diligent students had to travel; they could not depend on a single city for knowledge of the Sunnah. Abu Ḥanīfah, like other jurists and scholars, devoted much time to collecting *ḥadīth*s as well as to pondering their legal import.

He began, naturally, with the masters of *ḥadīth* in his own native city, Kufah. A large number of his *ḥadīth* teachers were Kufans. In Iraq,

besides Kufah, Basrah was known as the great centre for *hadīths* at this time, because of the presence there of Ḥasan al-Baṣrī, Muḥammad ibn Sīrīn, Yaḥyā ibn Abī Kathīr, Ayyūb al-Sakhtiyānī and Qatādah. It is surprising that, though Ibn Sirin and Ḥasan al-Baṣrī lived up to 110 AH, there is no evidence of Abū Ḥanīfah attending their lectures. Surprising too is the absence of any record of his narrating from Yaḥyā ibn Abī Kathīr who died even later. The prominent men in Basrah from whom Abū Ḥanīfah did hear *hadīths* were Qatādah, ʿAbd al-Karīm ibn Umayyah and ʿĀṣim ibn Sulaymān al-Aḥwal.

Abū Ḥanīfah also travelled many times to the *ḥaramayn*, Makkah and Madinah – the lowest number recorded for these journeys is 15. During the ḥajj season the *ḥaramayn* served as a focal point for scholars from different parts of the Islamic world. Abū Ḥanīfah made good use of these occasions to meet scholars, exchange ideas with them and learn from them. It is not known with certainty when he first travelled to the *ḥaramayn*, but this incident, related by Abū Ḥanīfah himself, strongly implies that it must have been early on: Abū Ḥanīfah went to a barber's to have his head shaved after the pilgrimage rites. The barber rebuked him a few times. First, when he asked what he would have to pay for the shave, the barber told him: 'One does not discuss what one has to pay for ḥajj rites.' Again, when Abū Ḥanifah became quiet and let the barber go on with his task, he suddenly remarked: 'One does not remain silent in ḥajj. Keep saying your *takbīr*.' And again, when Abū Ḥanīfah got up to leave after the barber had finished, the latter urged him to do two *rakʿahs* of prayer before leaving. Surprised, Abū Ḥanīfah asked him where he had learned these points of law. 'I owe them to ʿAṭāʾ ibn Abī Rabāḥ,' replied the barber. (Ibn Khallikān, *Wafayāt*, iii. 261–2)

ʿAṭāʾ ibn Abī Rabāḥ was the most pious, knowledgeable and respected scholar in *fiqh* and *hadīth* in Makkah. He was one of several Successors in the city, men who had studied with the Companions and were acknowledged masters of *hadīth*. Of these others who were

teachers of Abū Ḥanīfah, it is important to mention ʿAmr ibn Dīnār and ʿIkrimah.

Madinah had been the Prophet's home during the last decade of his life, and was the capital of the Islamic state. ʿAlī moved the capital to Kufah but Madinah remained the pre-eminent centre for knowledge of the Sunnah. Seven of the Successors living in Madinah had become accepted as leading authorities in *ḥadīth* and *fiqh*. Prominent among them were: Saʿīd ibn al-Musayyab, ʿUrwah ibn al-Zubayr, al-Qāsim ibn Muḥammad ibn Abī Bakr, and Khārijah ibn Zayd ibn Thābit. Mālik ibn Anas studied with the students of these seven jurists, and the *fiqh* of Madinah that he developed is based largely on their rulings. They had received instruction from leading Companions, and passed that learning on to their students who, in turn, were disseminating it in their schools in different parts of the Islamic world. Abū Ḥanīfah received the knowledge of Madinah from its leading scholars from among the Successors.

## HIS REPUTATION IN *ḤADĪTH* CIRCLES

Abū Ḥanīfah's reputation for analogy, critical thinking and originality was established quite early. He was described by some as a man of *raʾy* (opinion) and analogy. This description was an indirect way of saying that he lacked sufficient knowledge of *ḥadīth* and *āthar*. It also implied a preference for personal reasoning which, instead of a straightforward obedience to the Sunnah, complicated, perhaps even innovated, some elements of the commands expressed in the texts of Qurʾān and *ḥadīth*.

ʿAbdullāh ibn al-Mubārak, a well-known scholar who had studied with Abū Ḥanīfah, met the great Syrian imām, al-Awzāʿī. Al-Awzāʿī referred to Abū Ḥanīfah as 'an innovator who has appeared in Kufah' and discouraged ʿAbdullāh from listening to him. Then, from his notes, ʿAbdullāh recounted some complex juristic issues as dealt with by 'a shaykh whom I met in Iraq.' Al-Awzāʿī commented: 'This is a noble shaykh; go and learn more from him.' 'This is the same Abū Ḥanīfah

that you forbade me from,' ʿAbdullāh said. Later on, al-Awzāʿī met Abū Ḥanīfah in Makkah and discussed the issues that ʿAbdullāh ibn al-Mubārak had presented to him. Abū Ḥanīfah explained them in rather more detail than ʿAbdullāh had recorded. When the two men separated, al-Awzāʿī remarked to ʿAbdullāh: 'I envy this man for his abundant knowledge [and] perfect intelligence, and I repent to God, for I had been in a clear mistake about him. Stick close to this man, for he is different from what had been reported to me.' (Haytamī, *Khayrat*, 106–7)

The great scholars from whom Abū Ḥanīfah acquired *ḥadīth*s recognized his sincerity and piety as well as his intelligence, and accorded to him a degree of respect remarked upon and recorded by observers. ʿAbdullāh ibn al-Mubārak narrates that once Abū Ḥanīfah visited Mālik, who received him with great respect. After he had gone, Mālik said to his students: 'Do you know who this man was? They said: No. He was Abū Ḥanīfah al-Nuʿmān, who, if he had said that this pillar was made of gold, it would have been as he said. He has been guided to *fiqh* so much that he does not have much hardship in it' (ibid., 102; Dhahabī, *Siyar*, vi. 399)

## HIS TEACHERS IN *ḤADĪTH* AND *FIQH*

Abū Ḥanīfah narrated *ḥadīth*s, according to one estimate, from about 300 different teachers, of whom a considerable number are recognized as leaders in the field of *ḥadīth*. This is an indication of his extraordinary dedication to acquiring knowledge of the Sunnah. It is important to note that he studied with all the famous authorities of his time, and that these authorities were also the teachers of Sufyān al-Thawrī, of al-Awzāʿī, of Mālik ibn Anas and of Layth ibn Saʿd. The *ḥadīth*s narrated by 74 of Abū Ḥanīfah's teachers are recorded in the Six Books, the compilations of *ḥadīth*s that became widely established as the most *ṣaḥīḥ* or reliable. (Mizzī, *Tahdhīb*, xxix. 418–20; and see *Chart 1*, p. 32, and *Chart 3*, p. 96, below.)

It is impracticable in this brief essay to mention all of Abū Ḥanīfah's teachers. There is space here for only brief biographical notes on a few of them who were regarded as imāms in *ḥadīth* and *fiqh*. This information must suffice to indicate the quality of the men from whom Abū Ḥanīfah derived his store of *ḥadīth*s, and his understanding of their legal import and implications. Al-Shaʿbī (no. 1 in the list below) was the most senior of Abū Ḥanīfah's teachers. About ʿAṭāʾ (no. 2), Abū Ḥanīfah himself affirmed that he had not seen any one better than him. During the later period of the generation of the Successors, there were six men of whom it is affirmed by ʿAlī ibn al-Madīnī and other experts that the chains of narration went through them (Dhahabī, *Siyar*, v. 345). These six were: in the Hijaz, al-Zuhrī (no. 3) and ʿAmr ibn Dīnār (no. 4); in Basrah, Qatādah (no. 5) and Yaḥyā ibn Abī Kathīr; and in Kufah Abū Isḥāq al-Sabiʿī (no. 6) and al-Aʿmash (no. 7). Abū Ḥanīfah was fortunate in narrating from five of them; Malik ibn Anas narrated, from among these six, only from al-Zuhrī.

1 *ʿĀmir al-Shaʿbī* (d. 104), the oldest of Abū Ḥanīfah's teachers, was a great *tābiʿī* who had seen around five hundred Companions of the Prophet. He narrated *ḥadīth*s from the Companions ʿImrān ibn Ḥuṣayn, Jarīr ibn ʿAbdillah, Abū Hurayrah, ʿAbdullāh ibn ʿAbbās, ʿĀʾishah, ʿAbdullah ibn ʿUmar, ʿAdī ibn Ḥātim, al-Mughīrah ibn Shuʿbah, Fāṭimah bint Qays. Al-Zuhrī used to say that there are only four scholars: Saʿīd ibn al-Musayyab in Madinah, Ḥasan in Basrah, Makḥūl in al-Shām (i.e. Damascus), al-Shaʿbī in Kufah (Dhahabī, *Siyar*, v. 158). ʿAbdullāh ibn ʿUmar (the son of the second caliph) heard him lecture on the conquests and said: 'By God, he knows this better than me.' Abū Bakr al-Hudhalī says: 'Ibn Sīrīn asked me to stay close to al-Shaʿbī, because I have seen him being referred to [even] while the Companions were in big number' (Dhahabī, *Tadhkirat*, 82, 81). Al-Shaʿbī also served as a judge for a period of time. (ibid., 88)

2 *ʿAṭāʾ ibn Abī Rabāḥ* (d. 115) was the most famous teacher and imām of *ḥadīth*, *tafsīr* and *fiqh* in Makkah. He learnt from many Com-

panions until he became a *mujtahid*, (i.e. qualified to give legal rulings). He reported *ḥadīth*s from ʿAbdullāh ibn ʿUmar, ʿAbdullāh ibn ʿAbbās, Jābir, Zayd ibn Arqam, Abū l-Dardāʾ, Abū Hurayrah, among others of the two hundred Companions he had met. ʿAbdullāh ibn ʿUmar said: 'Why do the people come to me when ʿAṭāʾ is among them?' (Dhahabī, *Tadhkirat*, 98). Among those who learnt from ʿAṭāʾ are: al-Zuhrī, ʿAmr ibn Dīnār and al-Awzāʿī. When Abū Ḥanīfah called upon him for permission to attend his lectures, ʿAṭāʾ first examined his belief. This was necessary because Abū Ḥanīfah came from Iraq, which had been the seed-bed of several new sects in Islam. ʿAṭāʾ asked him which people of Iraq he belonged to. Abū Ḥanīfah replied: 'I do not abuse the early generation; I do not accuse a sinner of unbelief and I believe in Destiny' (Baghdādī, *Taʾrīkh*, xiii. 331). ʿAṭāʾ was pleased with his answers and allowed him to attend his classes. The intelligence of Abū Ḥanīfah soon impressed itself upon ʿAṭāʾ, and he used to seat him beside himself. During the lifetime of ʿAṭāʾ, whenever Abū Ḥanīfah visited Makkah he always called upon him and accompanied him.

3 *Abū Bakr Muḥammad ibn Muslim ibn Shihāb al-Zuhrī* (50–124). Some describe al Zuhrī as the greatest master of *ḥadīth*. He narrated from ʿAbdullāh ibn ʿUmar, Sahl ibn Saʿd, Anas ibn Mālik, Maḥmūd ibn al-Rabīʿ, Saʿīd ibn al-Musayyab and others of the longer-lived Companions and great *tābiʿūn*. Layth said: 'I have not seen any scholar more comprehensive in knowledge than al-Zuhrī'. The caliph ʿUmar ibn ʿAbd al-ʿAzīz (r. 99–101) said: 'No one is left who knows the *sunnah*s more than al Zuhrī' (Dhahabī, *Tadhkirat*, 109). Al-Zuhri himself said he never forgot anything that he had committed to memory. Once the Umayyad caliph Hishām ibn ʿAbd al-Malik (r. 105–125) asked al-Zuhri to dictate something to some of his children. Al-Zuhrī dictated many *ḥadīth*s to them. Then he came out, called the students of *ḥadīth* to him and dictated the same *ḥadīth*s to them also, exactly as before. (Iṣfahānī, *Ḥilyat al-awliyāʾ*, iii. 363).

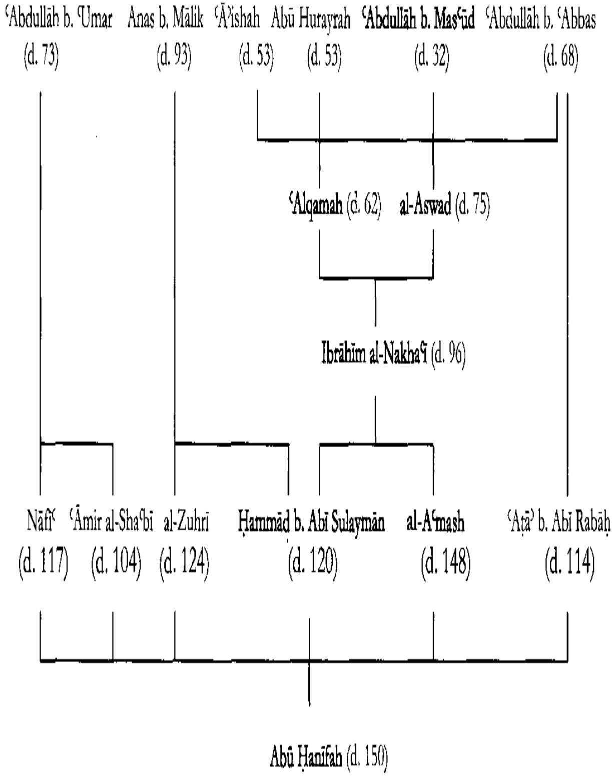



*Chart 1.* Transmission of *ḥadīth*, through students of major narrators among the Companions, to Abū Ḥanīfah

4 *ʿAmr ibn Dīnār al-Makkī* (46–126). ʿAmr heard *ḥadīth*s from Ibn ʿAbbās, Ibn ʿUmar, Jābir ibn ʿAbdillāh, Anas ibn Mālik and others. Shuʿbah praised his reliability in preserving and transmitting *ḥadīth*s. Ibn ʿUyaynah held the same high opinion of his accuracy, adding that in Makkah he had no equal in knowledge of *fiqh*.

5 *Qatādah ibn Diʿāmah al-Sadūsī al-Baṣrī* (61–118). Qatādah, a blind man and a famous *tābiʿī*, was a renowned expert in *ḥadīth*. He heard from Anas ibn Malik, ʿAbdullāh ibn Sirjis, Abu l-Ṭufayl, Saʿīd ibn al-Musayyab and others. He once stayed with Saʿīd ibn al-Musayyab for eight days. On the third, Saʿīd is reported to have said to Qatādah: 'O blind one, leave me – you have sucked me dry' (Dhahabī, *Tadhkirat*, 123). Aḥmad ibn Ḥanbal (d. 241) praised the excellence of his memory, his *fiqh*, his knowledge of *tafsīr*, and his knowledge of the differences among scholars. He says that Qatadah was able to memorize anything he had heard – the *Ṣaḥīfah* of Jābir was read to him once and he had it by heart. Al-Dhahabī adds that Qatadah was eminent in his mastery of the Arabic language, and in the history and genealogy of the Arabs.

6 *Abū Isḥāq al-Sabīʿī ʿAmr ibn ʿAbdillāh al-Hamdānī al-Kūfī* (d. 127). A *tābiʿī*, he narrated from ʿAbdullāh ibn ʿAbbās, ʿAbdullāh ibn ʿUmar, ʿAbdullāh ibn al-Zubayr, Nuʿmān ibn Bashīr, Zayd ibn Arqam and other Companions. Abū Ḥātim (d. 277) said he was reliable and like al-Zuhrī in abundance of *ḥadīth*s. Al-ʿIjlī (d. 261) mentions that Abū Isḥāq narrated from 38 Companions. ʿAlī ibn Madīnī, a famous teacher of al-Bukhārī, said: 'I counted the *shuyūkh* of Abū Isḥāq; they were around three hundred people.' (Dhahabī, *Siyar*, v. 392–401)

7 *Sulaymān ibn Mihrān*, known as *al-Aʿmash* (d. 148). A great and famous imām of Kufah. He met Anas ibn Malik and narrated from him and from ʿAbdullāh ibn Abī Awfā, Abū Wāʾil, Ibrāhīm al-Nakhaʿī and others. Abū Ḥanīfah, Sufyān al-Thawrī, Shuʿbah and others narrated from him. Al-Fallās said: 'al-Aʿmash was called *muṣḥaf* because of his truth'. Yaḥyā al-Qaṭṭān said: 'al-Aʿmash was the *ʿallāmah* [very learned] of Islam'. (Dhahabī, *Tadhkirat*, 154)

8 *al-Ḥakam ibn ʿUtaybah* (d. 115), the great master in Kufah in *ḥadīth* and *fiqh*. He narrated from Qāḍī Shurayḥ, Abū Wāʾil, Ibrāhīm al-Nakhaʿī, Saʿīd ibn Jubayr and others. Aḥmad ibn Ḥanbal said: 'Al-Ḥakam is the most reliable person in narrating from Ibrāhīm'. Ibn ʿUyaynah said: 'In Kufah there was no one like al-Ḥakam and Ḥammād'. Al-ʿIjlī said: 'Al-Ḥakam is reliable, firm, a *faqīh* and a man of the Sunnah'. And al-Mughīrah said: 'Whenever al-Ḥakam came to Madinah, the people used to leave for him the pillar of the Prophet where he prayed'. Mujahid ibn Rūmi said: 'I did not know the virtue of al-Ḥakam until the scholars gathered in the mosque of Mina where I saw them depending on him.' (ibid., 117)

9 *Sālim ibn ʿAbdillāh ibn ʿUmar* (d. 106), one of the famous jurists in Madinah. He narrated from his father ʿAbdullāh ibn ʿUmar, ʿĀʾishah, Abū Hurayrah, Rāfiʿ ibn Khadīj and Saʿīd ibn al-Musayyab. Mālik narrated from him through someone else, while Abū Ḥanīfah narrated from him directly. He had many virtues and his father was proud of him. Mālik said of him: 'There was no one in his time closer to the pious people of the past in *zuhd* (asceticism) and virtue than him.' Aḥmad ibn Ḥanbal and Isḥāq ibn Rāhawayh said: 'The best chain of narration is al-Zuhrī from Sālim from his father.' (ibid., 89)

10 *Nāfiʿ Abū ʿAbdillāh al-Madanī, mawla* of Ibn ʿUmar (d. 117). He narrated from his master Ibn ʿUmar, ʿĀʾishah, Abū Hurayrah, Umm Salamah, Rāfiʿ ibn Khadīj and others. Mālik narrated from him. ʿUmar ibn ʿAbd al-ʿAzīz deputed him to the people of Egypt to teach them the Sunnah. His narration from Ibn ʿUmar is regarded as one of the strongest *isnād*s.

11 *Hishām ibn ʿUrwah ibn al-Zubayr* (d. 146). Himself a great and highly esteemed *tābiʿī*, he narrated from many of the major *tābiʿūn*. Numbered among his students were great imāms like Sufyān al-Thawrī, Mālik, and Sufyān ibn ʿUyaynah. He came to Kufah during the reign of Abū Jaʿfar al-Manṣūr (r. 36–58), who respected him highly. The scholars of Kufah narrated from him. Ibn Saʿd (*Ṭabaqāt*, vii. 321)

described him as reliable and abundant in *ḥadīth*s. Abū Ḥātim called him an imām of *ḥadīth* (Mizzī, *Tahdhīb*, xxx. 238).

12 *Sulaymān ibn Yasar* (d. 110), *mawla* of Maymūnah, a wife of the Prophet. He narrated from her, also from ʿĀʾishah, Abu Hurayrah, Zayd ibn Thabit, ʿAbdullāh ibn ʿAbbās, and others. He was one of the seven famous jurists of Madinah.

13 *Salamah ibn Kuhayl* (47–121), a *tābiʿī* and master of *ḥadīth*. He narrated from Jundub al-Bajalī, Ibn Abī Awfā, Abū l-Ṭufayl and some other Companions, and major *tabiʿūn*. Ibn Saʿd described him also as abundant in *ḥadīth*s (Ibn Saʿd, *Ṭabaqāt*, vi. 316). Sufyān ibn ʿUyaynah said: 'Salamah ibn Kuhayl is one of the pillars of *ḥadīth*' (Mizzī, *Tahdhīb*, xi. 316). ʿAbd al-Raḥmān ibn Mahdī said: 'In Kufah there were four most sound narrators: Manṣūr, Salamah, ʿAmr ibn Murrah and Abū Ḥuṣayn.' (ibid.)

14 *Manṣūr ibn al-Muʿtamir al-Sulamī* (d. 132). Regarded as one of the most reliable narrator of *ḥadīth*s in Kufah, he reported from Abū Wāʾil, Ibrāhim, Kurayb, Abū Ḥāzim, ʿĀmir al Shaʿbī, Mujāhid, Saʿīd ibn Jubayr and others. ʿAbd al Raḥman ibn Mahdī said: 'There was no one equal to him in the knowledge of *ḥadīth* in Kufah' (Dhahabī, *Tadhkirat*, 142). Dhahabī (*Siyar*, v. 402) and others confirm that the most sound chain of narration from Kufah is: Manṣūr from Ibrāhīm from ʿAlqamah from ʿAbdullāh ibn Masʿūd.

15 *ʿIkrimah Abū ʿAbdillāh* (d. 107), the freedman and great student of ʿAbdullāh ibn ʿAbbās. He narrated from his master and from ʿAlī ibn Abī Ṭālib, Abu Hurayrah, ʿAbdullāh ibn ʿUmar, Jābir, Abū Qatādah, ʿĀʾishah and other Companions. He became qualified to give legal rulings and fatwas during his master's lifetime. Seventy famous scholars among the *tābiʿūn* were his students in *ḥadīth* and *tafsīr*. ʿĀmir al-Shaʿbī said: 'No one is more knowledgeable of the Qurʾān than ʿIkrimah.' Once Saʿīd ibn Jubayr was asked: 'Is there anyone more knowledgeable than you?' Saʿīd said: 'Yes, ʿIkrimah.' (Dhahabī, *Tadhkirat*, 96)

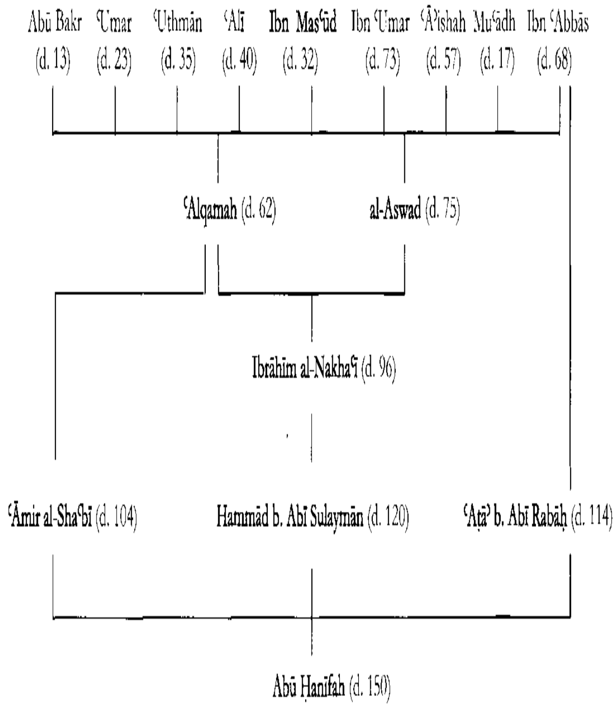



*Chart 2.* Transmission of *fiqh*, through the students of major figures among the Companions, to Abū Ḥanīfah

It is worth emphasizing, after that list of the great names among the teachers of Abū Ḥanīfah, that for his *fiqh*, the derivation of laws, and for his methods of reasoning, he relied above all and most assiduously upon Ḥammād ibn Abī Sulaymān. He was profoundly loyal to him and deeply conscious of his debt to him. Indeed, he accompanied Ḥammād continuously for ten years before he considered starting his own class. It is out of respect for Ḥammād that he waited so long. He explains:

> I accompanied him for ten years. Then my desire prompted me to seek prominence, so I wished to leave him and start my own class. I was going to do so one evening, but on entering the masjid and seeing him, I did not like to leave him, and I came and sat by him. On the same night Ḥammād received news of the death in Basrah of a relative, someone who had left no heir. Ḥammād asked me to sit in his place. As soon as he left I was confronted with questions [for] which I had not heard [answers] from Ḥammād. I responded to these questions, keeping notes of them. Ḥammād remained absent for two months. When he returned from Basrah I showed him the notes. They dealt with sixty questions. Ḥammād agreed with me in forty and differed from me in twenty of the answers. At that point I decided not to leave him while he lived. So I accompanied him [in all for] eighteen years. (Baghdādī, *Ta'rīkh*, xiii. 333)

After the death of Ḥammād in 120 AH, Abū Ḥanīfah succeeded him as the principal teacher of *fiqh* in Kufah. His fame spread, experts of *ḥadīth* and *fiqh* attended him, and people from every major city in the Islamic world came to study with him.

## HIS RELATIONS WITH THE STATE, IMPRISONMENT AND DEATH

Within Iraq itself, and then the rest of the Muslim world, Abū Ḥanīfah acquired such authority and influence that the rulers felt threatened by him. Zayd ibn ʿAlī's revolt against the Umayyads took place in 121 AH, during the reign of the caliph Hishām ibn ʿAbd al-Malik. Abū

Ḥanīfah supported Zayd ibn ʿAlī morally and financially, but did not participate in the actual revolt.

The machinations for the ʿAbbāsid revolution gathered strength during the reign of Marwān al-Ḥimār (r. 127–32). Abū Muslim of Khurasan was the main actor behind this revolt, and sapped the foundations of support for the Umayyads. As the political disturbances were shaking Iraq, and in particular the city of Kufah, Marwān al-Ḥimār made Yazīd ibn ʿUmar ibn Hubayrah governor of Iraq. Yazīd appointed reputed jurists, such as Ibn Abī Laylā, and Ibn Shubrumah to important political posts. He offered the posts of qāḍī or chief treasurer to Abū Ḥanīfah, who declined. Incensed, Yazīd declared on oath that he would compel him to accept appointment, but Abū Ḥanīfah said: 'If Yazīd were to ask me to count the doors of the masjids, I would not agree to do it for him, not to speak of my sealing the death-warrant of a Muslim signed by him' (Shiblī, *al-Nuʿmān*, 50, citing *ʿUqūd al-jumān*, ch. 21). Yazīd had Abū Ḥanīfah imprisoned and ordered that he be whipped daily, but Abū Ḥanīfah did not relent. It was Yazīd who had to relent and stop the punishment.

The ʿAbbāsid dynasty acquired power in 132 AH. The second ʿAbbāsid caliph Manṣūr succeeded his brother Abū l-ʿAbbās al-Saffāḥ in 136, and continued the policy of atrocities against Umayyads and descendants of ʿAlī ibn Abī Ṭālib. He killed Muḥammad ibn Ibrāhīm (known as al-Dībāj) and persecuted the ʿAlawīs relentlessly until they were unable to endure it any longer. In 145, a prominent descendant of ʿAlī, Muḥammad Dhū l-Nafs al-Zakiyyah, led a rebellion against ʿAbbāsid rule in Madinah. He was killed in Ramaḍān of the same year. Thereafter, his brother Ibrāhīm, a great scholar and a brave leader, took his place. His revolt gained much support from both scholars and the common people. Abū Ḥanīfah did not participate in the rebellion, but he did support Ibrāhīm financially and morally. Ibrāhīm fought well but was defeated and killed in Basrah and his movement

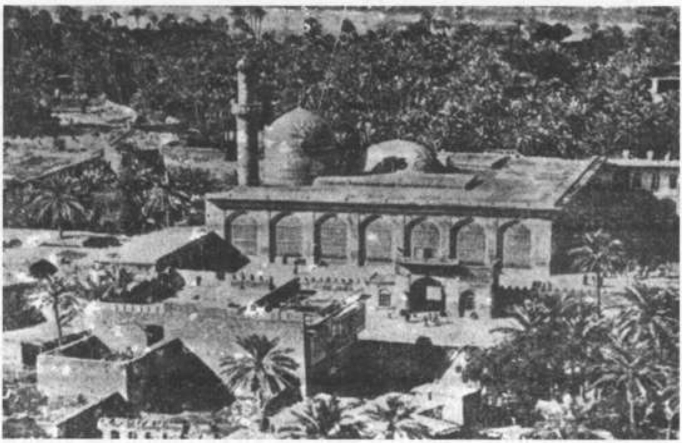
crushed. Manṣūr turned on those who had supported Ibrāhīm, and in 146 summoned Abū Ḥanīfah to Baghdad.

As Abū Ḥanīfah was presented to the caliph, Rabīʿ, the chamberlain introduced him with the words, 'This is the greatest scholar of the world today'. Manṣūr asked him who he had learnt from. Abū Ḥanīfah mentioned the names of his great teachers. When Manṣūr offered him the post of judge, Abū Ḥanīfah refused, claiming that he was not qualified for it. Manṣūr became angry and called him a liar, to which Abū Ḥanīfah replied that, if that was so, he could not be fit for the post as a liar cannot be appointed as judge. Manṣūr declared on oath that he would make Abū Ḥanīfah accept the post. He replied by similarly declaring on oath that he would never accept it. Rabīʿ said: 'Abū Ḥanīfah, do you oppose the caliph's vow with a vow of your own?' Abū Ḥanīfah replied: 'Yes, because it is easier for the Commander of the Faithful than it is for me to atone for the sin of swearing.' (Dhahabī, *Siyar*, vi. 401–2)

In the end, Manṣūr imprisoned Abū Ḥanīfah. But the man was by then so famous and popular that imprisonment did not stop scholars from visiting and learning from him. Manṣūr's unease and fear of him grew and it is alleged that he had him poisoned. Abū Ḥanīfah died in 150, the month variously given as Rajab or Shaʿbān or Shawwāl.

Ḥasan ibn ʿUmārah, the judge of the city, washed Abū Ḥanīfah's body in preparation for burial, and said: 'May God have mercy upon you. You fasted for thirty years continuously, and you did not sleep in the night for forty years. You were the greatest jurist, the greatest worshipper, the greatest ascetic among all of us. You combined all the virtues. You made people after you hopeless to reach your status' (Haytamī, *Khayrāt*, 227). His funeral prayer was held six times, and more than fifty thousand people prayed over him. Abū Ḥanīfah had expressed a wish to be buried in the graveyard at Khayzurān in the eastern part of the city, because the ground of that graveyard had not been seized by force. He was buried there after the *ʿaṣr* (mid-

afternoon) prayer. ʿAbdullāh ibn al-Mubārak visited Baghdad a few days after Abū Ḥanīfah's death. He went to his grave and said: 'O Abū Ḥanīfah, may God bestow His mercy upon you. Ibrāhīm [al-Nakhaʿī] died leaving his successor. Ḥammād died leaving his successor. But you died having left no one in the world who can succeed you' (ibid., 233). Ibn Jurayj said: 'What a knowledge has passed away!' Shuʿbah said: 'The light of knowledge has been put out in Kufah. Indeed they will never see his like [again].' (ibid., 228)



The Abū Ḥanīfah masjid, Baghdad, where he is buried, *ca.* 1890

## HIS DESCENDANTS

The only known descendant of Abū Ḥanīfah at the time of his death was his son Ḥammād. Ḥammād received his education from his father and other well-known scholars. He followed his father in piety as well as in learning and became a considerable scholar and jurist. Dhahabī (*Siyar*, vi. 403) says: 'Ḥammād had knowledge, religion, righteousness, and complete piety'. Many people had left deposits for safe-keeping with Abū Ḥanīfah, and these now became the son's responsibility. Ḥammād brought them to the judge so that he would take custody of them. The judge asked him to hold on to the deposits, but Ḥammād insisted that the judge should weigh, record and take custody of them so that 'the responsibility of the father finishes'. The judge was busy with this task for some days. Meanwhile Ḥammād went into hiding until he knew the judge had delivered the deposits to some trustworthy person for continued safe-keeping during their owners' absence. Throughout his life Ḥammād refused all contact with the royal court, and never entered anyone's service. He died in Dhū l-Qaʿdah 176, leaving four sons: ʿUmar, Ismāʿīl, Abū Ḥayyān and ʿUthmān.

Ismāʿīl studied with his father Ḥammād, ʿUmar ibn Dharr, Ibn Abī Dhīb, Mālik ibn Mighwal, Qāḍī Abū Yūsuf and Ḥasan ibn Ziyād, and became well known for his knowledge. The caliph Maʾmūn (r. 189-201) appointed him to the post of judge of Basrah. He carried out his duties so well that, when he left Basrah, all the people of the city came out to see him off. The famous Basran scholar Muḥammad ibn ʿAbdillāh al-Anṣārī says: 'No one who has held the post of judge [in this city] since the time of ʿUmar [ibn al-Khaṭṭāb] until our time was more knowledgeable than Ismāʿīl ibn Ḥammād.' He was asked: '[Not] even

Ḥasan al-Baṣrī?' He answered: '[Not] even Ḥasan al-Baṣrī.' Ismā'īl died in 212 AH.

## LIVELIHOOD AND PERSONAL QUALITIES

Unlike most other scholars at the time, Abū Ḥanīfah enjoyed complete financial independence, which freed him from any obligation that might have inhibited him from expressing his true opinion on any matter. He was a very successful silk merchant, the owner of a well-known shop in the quarter of 'Amr ibn Ḥurayth in Kufah. He traded in goods worth large sums, and had agents in a number of cities. With such a big establishment under him, he personally took care to see that no unlawful gains accrued to his business, even if this entailed occasional losses. Once he sent some cloth to his partner with instructions to point out to prospective buyers certain defects in some of the lengths. However, the partner forgot the instruction and sold off the defective lengths without informing the buyers. When Abu Ḥanīfah learned of this, he was very sorry and gave away the entire proceeds from the sale in charity (Haytamī, *Khayrāt*, 140). Makkī ibn Ibrāhīm said: 'I kept company with the people of Kufah – I have never seen among them anyone who avoided doubtful things as Abū Ḥanīfah did.' (ibid., 139)

### *Generosity*

Abū Ḥanifah was rich without being in love with wealth. He used his wealth for his and others' needs. He fixed stipends for all his needy friends and acquaintances, and reserved a part of his profits for distribution among scholars annually. He used to provide those of his pupils who were poor with money for their maintenance expenses, so that they could attend to their studies undistracted by domestic worries. Many students too poor to sustain their studies were edu-

cated with his help and attained to high position. One of these was his most famous student, Qāḍī Abū Yusuf.

Muthannā ibn Rajā' says: 'Whenever Abū Ḥanīfah spent something on his family, he would expend the same amount in charity' (Dhahabī, *Siyar*, vi. 400). One day a poor-looking man, along with some other people, called on Abū Ḥanīfah. When his visitors rose to take their leave, the Imām asked the poor man to stay on. After the others had gone, he indicated the prayer mat and asked the man to lift it. He did so and found a purse containing a thousand dirhams. Understanding he was being offered money, the man explained that he was well-to-do and did not need it. Abū Ḥanīfah said: 'Has the *ḥadīth* not come to you [that] God loves to see the sign of His favour on His slave?' (Baghdādī, *Ta'rīkh*, xiii. 361)

Once, while on his way to see a sick acquaintance, Abū Ḥanīfah saw at a distance some man who owed him 10,000 dirhams. As the man appeared to try to avoid him, Abū Ḥanīfah hailed him and asked why he had done so. The man replied that he was ashamed to face him because he had not been able to repay the loan. Moved by the man's sincerity, Abu Ḥanīfah said: 'Well, if you are unable to repay the loan, you need not do so, and that money is as a gift for you.' (Haytami, *Khayrāt*, 136)

Ibrāhīm ibn 'Uyaynah had accumulated a debt of 4000 dirhams and being unable to repay it stopped meeting people out of shame. A friend started collecting subscriptions to help him discharge the loan and approached Abū Ḥanīfah also. Abū Ḥanīfah there and then paid off the whole sum. (ibid., 137)

### *Piety*

The reports of Abū Ḥanīfah's virtues, particularly his piety, are abundant; some of them are confirmed even by those who opposed his arguments. Some called him 'the Peg' on account of his continuous standing in prayer (Dhahabī, *Siyar*, vi. 400). Asad ibn 'Amr said

that for forty years Abu Hanifah did *ʿisha*ʾ and *fajr* with the same *wuḍū*ʾ, meaning he did not lie down to sleep between the night and dawn prayers. Abū Yūsuf said: 'While I was walking with Abū Ḥanīfah, I heard a man say to another: That is Abū Ḥanīfah who does not sleep in the night. Upon hearing that, Abū Ḥanīfah said: By God, people should not say about me what I do not do. Thereafter he began spending the whole night in prayer, weeping and supplication.' (ibid., 399)

Abū Yūsuf sketched this portrait of his teacher for the caliph Hārūn al-Rashīd (r. 170–189) at the latter's request:

> As far as I know Abū Ḥanīfah was extremely pious, avoided forbidden things, remained silent and absorbed in his thoughts most of the time, and answered a question only if he knew the answer. He was very generous and self-respecting, never asked a favour of anybody, shunned the company of the worldly-minded and held worldly power and position in contempt. He avoided slander and only talked well of people. He was a man of profound learning and was as generous with his knowledge as with his money. (Wahbī, *Abu Ḥanīfah*, 72)

On hearing this account, Hārūn al-Rashīd observed: 'Those are the characteristics of the righteous.' His virtues, piety and devotion to worship undoubtedly derived from constancy with the Qurʾān. He recited it daily, and the whole twice each day of Ramaḍān, without neglecting his normal duties. (For reports about this, see Dhahabī, *Siyar*, vi. 397–401.)

### *God-wariness*

An abundance of reports affirm that Abū Ḥanīfah was on the highest degree of fear of God. Yazīd ibn Kumayt reports that he heard someone say to Abū Ḥanīfah: 'Fear God!' Abū Ḥanīfah trembled and went pale, then bowed his head and said: 'May God reward you well! How needy people are for someone to remind them of this.' (Dhahabī, *Siyar*, vi. 400)

Abū Ḥanīfah was profoundly convinced of the truth of the Qurʾān, and in him this conviction was combined with understanding and the commitment to teach and live the life that the Qurʾān enjoins. He was often overwhelmed by feeling when reciting or reflecting upon it. Ibrāhīm al-Baṣrī relates that one morning he was doing his prayer together with the Imām. When he recited the verse (*Ibrāhīm*, 14: 42), 'Do not reckon that God is unmindful of what the evil-doers are doing', his whole body convulsed with sobbing (Makkī, *Manāqib*, 12). Zaʾidah relates that he had an important question to put to Abū Ḥanīfah and planned to do so after the *ʿisha*ʾ prayer. He waited for him to finish his supererogatory prayers after the *ʿishā*ʾ. But when, during his recitation of the Qurʾān, Abū Ḥanīfah reached the verse (*al-Ṭūr*, 52: 27), 'then God bestowed favour upon us and saved us from the torment of the scorching wind [of hell]'), he went on repeating it until the morning. (Baghdādī, *Taʾrīkh*, xiii. 357)

On another occasion he spent the whole night repeating the verse (*al-Qamar*, 54: 46): 'No, but the Hour is [the time] appointed for them and the Hour is most grievous and most bitter', weeping while he did so (Haytamī, *Khayrāt*, 125). Yazīd ibn Kumayt relates that he joined Abū Ḥanīfah in an *ʿishā*ʾ during which the imām leading the prayer recited the sūrah *al-Zilzāl* (98: 1–8), 'When the earth shall quake with her quaking... Then whoever has done a particle's weight of good shall see it, And whoever has done a particle's weight of evil shall see it'. After the congregation had departed, Abu Ḥanīfah was still sitting and sighing. Yazīd did not want to disturb him, so he too went away, leaving Abū Ḥanīfah there. When he returned to the masjid the following morning, he found him still there, holding his beard in his hands and saying: 'O You who will reward even the smallest virtue and punish even the smallest sin, save Your slave Nuʿmān from hell-fire.' (ibid., 126)

He never backbited or slandered anyone. When this was reported to Sufyān al-Thawrī he said: 'Abū Ḥanīfah is too intelligent to ruin all

his good deeds [by backbiting or slander]' (Baghdādī, *Ta'rīkh*, xiii. 361). Abū Ḥanīfah often thanked God for saving his tongue from being contaminated by the evil of abusive talk and back-biting. When asked once why, when others spoke ill of him, he never did the same, he said: 'This is God's grace. He grants it to whoever He wills.' (Haytamī, *Khayrāt*, 132)

### *Humility and forbearance*

In spite of wealth and his reputation as a great scholar, Abu Ḥanīfah was not arrogant or conceited, nor affected any air of intellectual or moral superiority. He understood well that the people who came to him were very different in talents and temperament, and that these differences, as well as differences of opinion, should be anticipated and accepted. He faced both difficult questions and difficult questioners. Of the latter, many instances are recorded:

While he was sitting in the masjid, surrounded by his students and admirers, a stranger put a question to him, which he answered. The stranger commented that Ḥasan al-Baṣrī had given a ruling contrary to that. Abū Ḥanīfah said: 'Then Ḥasan al-Baṣrī made a mistake.' It happened that among those present there was an ardent disciple of Ḥasan al Baṣrī, and he blurted out: 'You son of a whore! You dare to say that Ḥasan al-Baṣrī made a mistake?' This caused an uproar in the assembly. However, Abū Ḥanīfah intervened and prevented any further unpleasantness. When calm had been restored, he turned to the abusive man and said very gently: 'Yes, Ḥasan did make a mistake. The correct tradition on the subject is the one narrated by ʿAbdullāh ibn Masʿūd.' (ibid., 192)

Yazīd ibn Kumayt was present on an occasion when a questioner spoke abusively to Abū Ḥanīfah, who continued to answer the man gently and calmly, even though he became increasingly rude. In the end, he called Abū Ḥanīfah a heretic (*zindīq*). On hearing that word,

Abū Ḥanīfah said: 'May God forgive you! He knows that you have used a wrong word about me.' (ibid.)

One day, a man who harboured some ill-will against Abū Ḥanīfah began railing at him while he was trying to teach. He paid no attention, carried on with his teaching, and told his students also to ignore him. When the class was over, the man followed him out and went on abusing him until they reached Abū Ḥanīfah's house. There, Abū Ḥanīfah stopped and said to the man: 'My brother, we are now at the doorstep of my house. If you have anything more to say, say it, because I shall presently go in and you may not get another opportunity.' (ibid., 195)

A young man, not a regular student of Abū Ḥanīfah's, put a question to him and, on hearing the answer, said: 'Abū Ḥanīfah, your answer is wrong.' Abū l-Khaṭṭāb Jurjānī, a devoted disciple, was infuriated by this and shouted to the assembly: 'You are shameless people! Here is a mere youngster speaking rudely to the Imām, and no one seems to be disturbed.' Abū Ḥanīfah said to him: 'I am here to give people an opportunity freely to point out my mistakes, and it is my duty to listen patiently.' (ibid., 196)

*Considerateness and concern for others*

It is known from his response to all that he endured at the hands of the political authorities that Abū Ḥanīfah bore his own sufferings with equanimity and unwavering resolve. Yet he was a most tender hearted man, deeply affected by the distress of others, and alert to their needs. We have cited above reports recording how open-handed he was with his wealth. He was no less generous in giving of his time and attention. Zufar says: 'I accompanied Abū Ḥanīfah for more than 20 years. I have not seen anyone more sincere for the people than him, and more caring for the people than him. He humbled himself for the sake of God. Most of the day he would be busy in knowledge, dealing with juristic issues, and teaching. When he stood up from his

assembly, he would visit an invalid, or take part in a funeral, or help a poor person, or fulfil the need of a needy person. When it was night, he would devote himself to worship, prayer, reading the Qurʾān. That was his way until he died.' (Makkī, *Manāqib*, i. 152)

Not much is known about Abū Ḥanīfah's father; it seems likely that he died when Abū Ḥanīfah was still a child. His mother was long-lived, and he looked after her with great affection and regard, although she appears not to have recognized her famous son's expertise. In a report from Muḥammad ibn al-Ḥasan she tells Abū Ḥanīfah to ask ʿUmar ibn Dharr, a well-known preacher of Kufah, the answer to a particular question that she had. Abū Ḥanīfah duly went and asked the preacher, who said: 'Tell me the answer; I will repeat it to you, and then you can convey it to her from me.' Abū Ḥanīfah did so and she was satisfied (ibid., ii. 6). A similar report is attributed to Abū Ḥanīfah himself. His mother once asked him to get a fatwā from a sermon-giver called Zurʿah. Abū Ḥanīfah answered her question but she was not content with the answer from him; she said: 'I will accept only Zurʿah's answer.' Abū Ḥanīfah accompanied her to Zurʿah, who said: 'You are more knowledgeable and more expert in *fiqh*.' Abū Ḥanīfah told him the fatwā he had given in answer. Only when Zurʿah confirmed that his answer was as Abū Ḥanīfah had said was his mother satisfied. Then Abū Ḥanīfah accompanied her home. (Haytamī, *Khayrāt*, 195–6)

In Abū Ḥanīfah's neighbourhood, there lived a cobbler who, after his day's work, would come home with friends and eat and drink and make merry into the night. Now and again in his drunkenness, the cobbler sang a couplet, whose meaning is: 'People have let me go to ruin and waste! / I, who would have been of use to them in battle and siege.' As Abū Ḥanīfah regularly spent the latter part of the night in prayer, he would overhear this revelry but, out of neighbourly consideration and his habitual kindliness, he never made a fuss. On one particular night, he did not hear his neighbour. The following morning

he made inquiries and learnt that the cobbler and his friends had been arrested by the police. Abū Ḥanīfah went straightaway to call on the governor, ʿĪsā ibn Mūsā, and was received with honour and respect. He explained the reason for his visit and, through his intercession, secured the release of the cobbler and his friends. Then, accompanying the cobbler home, he asked him: 'Well, my friend, have I let you "go to ruin waste"?' 'No,' said the cobbler, 'You have taken care and protected, may God reward you.' He changed his way of life thereafter, renouncing his self-abandonment in favour of self-discipline. He joined Abū Ḥanīfah's classes and in time attained such proficiency that people called him *faqīh*. (ibid., 193–4)

What these anecdotes and others like them record is that Abū Ḥanīfah's being virtuous was not a merely formal rectitude. His whole character was so deeply founded upon trust in God, that his kindness to others was expressed instinctively, with natural warmth and humanity. Therefore, his kindness was experienced as a relief and not a burden by those who received it. Occasionally, one glimpses also a sense of humour and wit in the man. His grandson, Ismāʿīl, recalls: 'We had a grinder neighbour who was a Rāfiḍī [a Shīʿī sect, given to abusing the Companions, in particular the first two caliphs]. He owned two mules and called one of them Abū Bakr and the other ʿUmar. One of the mules kicked him one night and killed him. When Abū Ḥanīfah was told of this, he said: "You will discover that the mule that kicked him was the one he called ʿUmar." People checked and found that this was indeed the case.' (Baghdādī, *Taʾrīkh*, xiii. 364–5)

### *Daily routine*

It is difficult to sketch Abū Ḥanīfah's daily routine. From accounts provided by different scholars, one learns that he was not at all self-centred, rather he devoted himself to the service of others, and tried to balance his professional and personal obligations. According to his contemporary Misʿar ibn Kidām, Abū Ḥanīfah would perform the *fajr*

prayer, then sit to teach, discuss juristic issues, and answer questions until the time of noon prayer. After that he would sit for the sake of knowledge until the afternoon prayer; then he would teach again until a while before sunset. After the sunset prayer he would again sit for his class until the time of the night prayer. Then he would pass the night in devotions and long prayers. (Dhahabī, *Ta'rīkh*, vi. 135)

*Appearance*

Along with excellence of character, God had endowed Abū Ḥanīfah with good looks. Several eye-witness reports confirm that he liked to dress well, that is, in clothes of good quality, and wore fine perfume. 'Abd al-Raḥmān ibn Muḥammad ibn al-Mughīrah said: 'I saw Abū Ḥanīfah as an old person giving fatwās to the people in the mosque of Kufah. On his head there was a long black cap.' Naḍr ibn Muḥammad said: 'Abū Ḥanīfah was handsome, wore nice clothes and nice perfume.' Qāḍī Abū Yūsuf said: 'Abū Ḥanīfah was of medium height, with handsome features and a well-proportioned figure. His way of speaking was pleasing and his voice loud and clear. He was most eloquent in explaining himself.' His son Ḥammād said: 'My father was handsome, had beautiful appearance, much perfumed. He did not speak but in reply. He did not engage in unnecessary business.' Ibn al-Mubārak said: 'I did not see anyone in his assembly more elegant, well-mannered, and composed than Abū Ḥanīfah.' (Dhahabī, *Siyar*, vi. 399–400)

## THE VIEW OF HIS CONTEMPORARIES AND PEERS

As I mentioned in the Introduction, there was a broad division among the Islamic scholars of this early period into two groups: *ahl al-ḥadīth* and *ahl al-ra'y*. The difference was one of emphasis rather than principle since, for all practical purposes, all scholars were agreed on the sources of the law. However, the scholars of the Kufan school

were consistently referred to by their opponents as *ahl al-ra'y* ('the people of opinion'), with the negative implication that they relied on their own reasoning in preference to relying on *ḥadīth*s. This is, as we will see more fully in the next chapter, an error based on a failure to understand the subtle method that Abū Ḥanīfah applied to derive *fiqh* from Qur'ān and *ḥadīth*. Here, in the context of a review of Abū Ḥanīfah's life, it is relevant to note that the best minds of his generation, of either group, did not fall into this error. They recognized and praised his work in *fiqh* as an authentic extension and preserving of the Sunnah.

Ibn al-Mubārak said: 'If you hear [the people] mention Abū Ḥanīfah derogatorily then do not pay any attention to such people because they are narrow-minded and have little knowledge' (Makkī, *Manaqib*, ii. 68). ʿAbdullāh ibn Dāwūd al-Khuraybī said: 'No one criticizes Abū Ḥanīfah except an envier or an ignoramus' (Baghdādī, *Ta'rīkh*, xiii. 367). ʿIsā ibn Yūnus said: 'Never accept anyone saying a bad word about Abū Ḥanīfah. By God, I have not seen anyone better and more expert in *fiqh* than him' (Haytamī, *Khayrat*, 110). Yaḥyā ibn Ādam said of those who spoke ill of Abū Ḥanīfah: 'Abū Ḥanīfah brought to them a knowledge of which they understood some and did not understand some, so they envied him.' (ibid., 111)

All the great scholars of Abū Ḥanīfah's time, like Sufyān al-Thawrī of Kufah, al-Awzāʿī of Syria, Mālik ibn Anas of Madinah, Ibn Jurayj of Makkah, Layth ibn Saʿd of Egypt and other experts of *ḥadīth* and *fiqh* were, once they knew Abū Ḥanīfah and his work, unanimous in their praise of him.

Sufyān al-Thawrī stood up for him when Abū Ḥanīfah visited him after his brother's death. He explained this gesture of respect: 'This man holds a high rank in knowledge, and if I did not stand up for his knowledge I would stand up for his age, and if not for his age then for his God-wariness (*waraʿ*), and if not for his God-wariness then for his *fiqh*.' (Baghdādī, *Ta'rīkh*, xiii. 341)

Muḥammad ibn Bishr said: 'I used to call upon Abū Ḥanīfah and Sufyān. Once I came to Abū Ḥanīfah. He asked, Where are you coming from? I said: From Sufyān. Abū Ḥanifah said: You are coming from a man who, if ʿAlqamah and al-Aswad had been alive, they would have needed him. Once I came to Sufyān. He asked me, Where are you coming from? I said: From Abū Ḥanīfah. Sufyān said: You are coming from a man who is the most expert in *fiqh* on the face of the earth' (ibid., 344). Qāḍī Abū Yūsuf said: '[Sufyān] al-Thawrī is more of a follower of Abū Ḥanīfah than me.' (Haytamī, *Khayrāt*, 105)

On the death of Abū Ḥanīfah, Shuʿbah said: 'Kufah has become a dark place.' Ibn Jurayj said: 'A great scholar has left us.' And: 'Indeed Abū Ḥanīfah is a *faqīh*! Indeed he is a *faqīh*! Indeed he is a *faqīh*!' (ibid., 107). Abū Nuʿaym, Abū Ḥanīfah's student, said: 'Muslims should pray to God for Abū Ḥanīfah in their prayers, because the *sunnah*s and the *fiqh* were preserved for them through him.' Similarly, ʿAbdullāh ibn Dāwūd al-Khuraybī said: 'It is incumbent on the people of Islam to pray for Abū Ḥanīfah in their prayer, because he preserved the *sunnah*s and *fiqh* for them.' (Baghdādī, *Taʾrīkh*, xiii. 344)

Ibn al-Mubārak said: 'If God had not rescued me through Abū Ḥanīfah and Sufyān al-Thawrī, I would have been like the rest of the common people' (ibid., 337; Dhahabī, *Siyar*, vi. 400). Makkī ibn Ibrāhīm, al-Bukhārī's teacher, said: 'Abū Ḥanīfah was the most knowledgeable of his time' (Baghdādī, *Taʾrīkh*, xiii. 345). Abū Muʿāwiyah al Ḍarīr said: 'I never saw anyone more fearful of God than Abū Ḥanīfah, even on trial under the whip and through money and property' (ibid., 359). He also said: 'Love of Abū Ḥanīfah is part of the Sunnah.' (Haytamī, *Khayrāt*, 114; Dhahabī, *Siyar*, vi. 401)

# 3

# His *fiqh*

## THE KUFAN SCHOOL OF *FIQH*

Kufah was founded at the command of ʿUmar. More of the Companions settled there than in any city except Makkah and Madinah, and among them were men of the highest seniority in Islam: ʿAbdullāh ibn Masʿūd, ʿAlī ibn Abī Ṭālib, Saʿd ibn Abī Waqqāṣ, Ḥudhayfah ibn al-Yaman, ʿAmmār ibn Yāsir, Abū Mūsā al-Ashʿarī and others. Of these, ʿAbdullāh ibn Masʿūd and ʿAlī ibn Abī Ṭālib were the most influential in developing *fiqh* in Kufah.

ʿAlī ibn Abī Ṭālib was the Prophet's cousin and brought up under his care. He had more opportunities than many others to observe the Prophet's actions and hear his words. Also, as he said: 'The Prophet used to tell me things whether I questioned him or not.'[2] Moreover, ʿAlī was perceptive and intelligent to a degree acknowledged by all the Companions. Since most of his juristic judgments were made in Kufah (the capital during his caliphate), its people acquired a great deal of his way of understanding Qurʾān and Sunnah as law.

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[2] Tirmidhī, *Sunan*, k. *al-Manāqib*, b. *ʿAlī ibn Abī Ṭālib*.

ʿAbdullāh ibn Masʿūd was the sixth person to embrace Islam, in the very early days of the Prophet's mission in Makkah. Thereafter, he was always close to the Prophet, accompanying him most of the time, serving him, and learning from him as much as he could. He was the Prophet's Companion on the night of the jinn (see Qurʾān, 72). The Prophet had confidence in his knowledge and understanding of Islam, and said of him: 'I am pleased for my *ummah* with what ʿAbdullāh is pleased with for them' (Ḥākim, *Mustadrak*, iii. 317). Many Companions praised ʿAbdullāh as the one among them most like the Prophet in character and way of life. Ḥudhayfah, confidant and secretary of the Prophet, said: 'By God, I do not know anyone closer to the Messenger of God in his way and character from the time he comes out of his house till the time he comes back to it than ʿAbdullāh ibn Masʿūd.' Abū Mūsā al-Ashʿarī said: 'We regarded ʿAbdullāh as a member of the family of the Prophet.'[5] When ʿUmar ibn al-Khaṭṭāb sent him to the people of Kufah, he wrote in the letter of appointment: 'I have preferred you over myself by sending ʿAbdullāh to you.' (Dhahabi, *Tadhkirat*, 14)

ʿAbdullāh ibn Masʿūd moved to Kufah in 17 AH, the very year it was founded, and remained there until near the end of ʿUthmān's caliphate. He devoted his time to teaching the Qurʾān, Sunnah and *fiqh*. About 4000 people learnt *fiqh* directly from him or from his students. When ʿAlī moved to Kufah during his caliphate he was pleased to see the abundance of jurists in the city. Among the prominent scholars trained by Ibn Masʿūd were: ʿAlqamah ibn Qays al-Nakhaʿī (d. 62), al-Aswad (d. 75), ʿAbīdah ibn ʿAmr al-Salmānī (d. 72), Zirr ibn Ḥubaysh, (d. 82), Abū ʿAbd al-Raḥmān ʿAbdullāh ibn Ḥabīb al-Sulamī (d. 74), Rabīʿ ibn Khuthaym (d. 65), and Shurayḥ ibn al-Ḥārith al-Kindī (d. 80).

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[5] Bukhārī, *Ṣaḥīḥ*, k. *al-Faḍāʾil*, b. *Manāqib ʿAbdillāh ibn Masʿūd*.

ʿAlqamah and al-Aswad learnt from both ʿAbdullāh ibn Masʿūd and ʿAlī ibn Abī Ṭalib. Also, they travelled to Makkah and Madinah many times where they received knowledge from the jurists of those cities. Their teachers included ʿUmar, ʿUthmān, ʿĀʾishah, ʿAbdullāh ibn ʿAbbās, ʿAbdullāh ibn ʿUmar and many other Companions. In this way, the *fiqh* developed by ʿAlqamah and al-Aswad in Kufah contained and reflected the knowledge of the major scholars of the Hijaz. ʿAlqamah was specially close to ʿAbdullah ibn Masʿūd. The *tābiʿūn* used to say that ʿAlqamah was, of all his students, the most like him in character and way of life.

Among students of ʿAlqamah and al-Aswad the most prominent were Ibrāhīm al Nakhaʿī, ʿĀmir al Shaʿbī, and Abu Wāʾil.

Ibrāhīm ibn Yazīd al-Nakhaʿī, the nephew of ʿAlqamah and al Aswad, succeeded them as the principal teacher in Kufah. He narrated from his uncles, from Masrūq, Rabīʿ ibn Khuthaym, and other great *tābiʿūn*. He used to accompany his uncles on their journeys to the *ḥaramayn*. It is reported that as a child he was even permitted to enter in the house of ʿĀʾishah. For his extraordinary contribution to knowledge of the law he earned the title of '*faqīh al-ʿIrāq*'. During his time as head of the school, a short collection of *fiqh* rulings was compiled, based on Prophetic *ḥadīth*s and the fatwās of ʿAlī and Ibn Masʿūd. Though not a systematic work, Ibrāhīm's pupils committed its contents to memory. For his expertise in *ḥadīth* Ibrāhīm was called '*ṣayrafī al-ḥadīth*' (assayer of *ḥadīth*s). On the day of his funeral, al Shaʿbī said: 'You have buried the most expert in *fiqh* among all the people of the earth.' He was asked: 'Was he greater in *fiqh* than Ḥasan al-Baṣrī?' Al Shaʿbī replied: 'Greater than Ḥasan, than the people of Basrah, than the people of Kufah, than the people of Shām, and than the people of Hijaz' (Iṣfahānī, *Ḥilyat al-awliyāʾ*, iv. 220). Many of Ibrāhīm's students became famous scholars; the best known of them were: Ḥammād ibn Abī Sulaymān, Manṣur ibn al-Muʿtamir, and al-Ḥakam ibn ʿUtaybah.

Ibrāhīm died in 96 AH. He was succeeded by Ḥammād ibn Abī Sulaymān. ʿAbd al-Malik ibn Iyās al-Shaybānī said: 'I asked Ibrāhīm: To whom will we put questions after you? He replied: Ḥammād.' A leading Kufan scholar, al-Mughīrah, said: 'We called on Ibrāhīm during his illness. He said to us: Stick close to Ḥammād; he has asked me about all that the people have asked me' (Dhahabī, *Siyar*, v. 232). Al-ʿIjlī said: 'Ḥammād was a reliable Kufan and the greatest of all the students of Ibrāhīm in *fiqh*' (Dhahabī concurred with this assessment: ibid., 234). When Ḥammād died (120 AH), he was succeeded by *his* best student, Abū Ḥanīfah.

## ABŪ ḤANĪFAH AND THE KUFAN SCHOOL

Abū Ḥanīfah was born and brought up in Kufah. Therefore, in the style of Qurʾānic recitation, in the details of the prayer-rite, and in other matters, he followed the practice of Kufah. He acquired knowledge of the *fiqh* that had evolved in Kufah from Ḥammād, whom he accompanied for eighteen years, and from other teachers he studied with. He brought to that knowledge an intelligence unequalled in his field for its clarity, rigour and organizing power. He knew from his extensive experience in trade, as well as from the scores of legal queries that were addressed to the scholars of Kufah, himself in particular, of the community's need for a systematically argued and arranged body of laws. He knew also of the errors committed by jurists and judges in deciding the cases before them and answering legal questions.

The sheer multitude of transactions and relationships that had entered within the jurisdiction of Islam; the growing distance from the generation of the senior Companions, on whose judgments one could justifiably depend because of the depth of their understanding of and commitment to Islam; and the growing volume of divergent (sometimes conflicting) legal opinions that were circulating, along

with individual reports of the dicta of the Prophet or the Companions, the context and legal implications of which were not always fully understood – all this must have impressed upon Abū Ḥanīfah the need for a systematic approach. What was needed was an organized body of general principles and particular rulings that would do for the law what a systematic grammar can do for a language – record and describe, then explain and prescribe, good practice.

Abū Ḥanīfah was aware of the scale of the project he was undertaking and that it was neither desirable nor practicable that he undertake it on his own. He devoted himself to teach and prepare a team of jurists who could help him in this task and carry it on after him. He discussed juristic issues with his students in order to school as well as consult them. In this sense the *fiqh* that he was developing was a consultative one. The prominent members of his circle brought particular aptitudes and learning to the group – for example, Abu Yūsuf, Yaḥyā ibn Abī Zāʾidah, Ḥafṣ ibn Ghiyāth and Dāwūd al-Ṭāʾī were experts in traditions of the Prophet and his Companions; Zufar was renowned for his proficiency in analogy; Qāsim ibn Maʿn and Muḥammad ibn al-Ḥasan al-Shaybānī were accomplished in Arabic literature and learning. They met daily and their work proceeded through open discussion and debate. Abū Ḥanīfah would listen to the discussion, summarize it, and then offer his conclusions and opinion. The aim was always to proceed by unanimity and consensus. However, if differences of opinion could not be reconciled, the different opinions were all recorded. The laws were divided up into subject areas in a now familiar order: *ṭahārah*, *ṣalāh*, *ṣawm*, and so on. This order has been followed more or less unchanged ever since, in all kinds of works on *ḥadīth* and *fiqh*, including those compilations of *ḥadīth*s that are arranged by subject (*muṣannaf*) rather than by narrator (*musnad*).

This systematic compilation of the *fiqh* continued from 120 to 150 AH, the year of Abū Ḥanīfah's death including the years that he spent in prison. Over those thirty years, literally thousands of cases

were decided, through the legal queries submitted to it, by this consultative body. Its particular decisions and its methods of reasoning were communicated to every city in the Islamic world by the hundreds of students of the Kufan school appointed to judicial posts throughout the ʿAbbāsid dominions. This school thus enjoyed a quasi-official status in that it was regularly consulted by functionaries and agents of the state.

## SOURCES AND PRINCIPLES OF ABŪ ḤANĪFAH'S *FIQH*

The sources of *fiqh* were already well known by Abū Ḥanīfah's time in the practice of the leading experts who consistently justified their *fiqh* on the basis of Qurʾān and Sunnah. Abū Ḥanīfah was among the first to state these sources as such in explicit terms and in their strict hierarchical relationship:

I hold to the Book of God, Exalted is He. If I do not find [what is sought] in it, then I hold to the Sunnah of the Messenger of God, peace be upon him; if I do not find in the Book of God and the Sunnah of His Messenger, then I hold to the opinion of the Companions. I hold to the opinion of whoever I want among them and I leave the opinion of whoever I want among them. I do not leave their opinion for the opinion of other than them. When it comes to [the Successors] Ibrāhīm, al-Shaʿbī, Ibn Sīrīn, Ḥasan, ʿAṭāʾ, Saʿīd ibn al-Musayyab (and he mentioned other people) then I do *ijtihād* as they did. (Baghdādī, *Taʾrīkh*, xiii. 368)

It is not permissible for anyone to voice his opinion in the presence of [i.e. if there exists a ruling in] the Book of God, or in the presence of the Sunnah of the Messenger of God, or the consensus of his Companions. If the Companions differ then we choose from among their opinions what is closer to the Book of God, Exalted is He, or to the Sunnah, and we do *ijtihād*. As to what is beyond that – application of *ijtihād* with *raʾy* (individual opinion) [is permissible] for one who is knowledgeable about differences of opinions and *qiyās* (analogy). (Haytamī, *Khayrāt*, 95)

Abū Ḥanīfah was concerned to distinguish abrogating and abrogated *ḥadīth*s. He followed a *ḥadīth* when it was proven to him to be from the Prophet and his Companions. He was knowledgeable about the *ḥadīth*s of the people of Kufah and their *fiqh*, and keen to continue their practice. He used to say: 'There are abrogating and abrogated [verses] in the Book of God; there are abrogating and abrogated [statements] in the *ḥadīth*.' From all the reports that reached his city Abū Ḥanīfah knew by heart the last practice (*sunnah*) of the Messenger of God on which he died. (ibid., 97)

It is quite clear from the sources that, for Abū Ḥanīfah, juristic *ijtihād* (exercise of conscience and reason) entered among the sources of the law only after the Qurʾān and Sunnah and *ijmāʿ*, the consensus of the Companions, had been exhausted. Such *ijtihād* was subject to conditions expressed in the terms *qiyās*, *istiḥsān* (preference between permissible rulings), and *raʾy*.

## THE QURʾĀN AND SUNNAH, AND *IJMĀʿ*

On the basis of the Qurʾān itself (4: 59; 53: 1–4), Abū Ḥanīfah understood the Sunnah as a complementary source for the law. Nevertheless, the Qurʾān has absolute primacy because, in the first place, its text is so firm in its authenticity as to leave no room for doubt. He rejected the abrogation of any verse of the Qurʾān by an isolated report of the Sunnah. In case such a report appeared to contradict the Qurʾān, he would, wherever possible, reconcile any difference between them. For example, the Qurʾān (73: 20) commands: 'Recite whatever is easy of the Qurʾān'. There is a Prophetic *ḥadīth* which says: 'There is no prayer for the one who does not recite *al-Fātiḥah*.'[4] While some may have understood the *ḥadīth* as narrowing the meaning of the

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[4] Bukhārī, *Ṣaḥīḥ*, k. *al-Ṣalāh* b. *Wujūb al-qirāʾah li-l-imām wa-l-maʾmūm fī l-ṣalawāt kulli-hā*.

Qur'ānic verse so that its command was taken to mean 'Recite the *Fātiḥah*', Abū Ḥanīfah reconciled the two by putting recitation of verses of the Qur'ān in the prayer in the highest category of obligation (*farḍ*), and recitation of *al-Fātiḥah* in a lesser category (*wājib*). If unable to reconcile Qur'ān and *ḥadīth*, he would leave the latter for the former. Ḥasan ibn Ṣāliḥ ibn Ḥayy, a contemporary from among the Kufan *ahl al-ḥadīth*, affirmed that Abū Ḥanīfah would never turn away from a *ḥadīth* if its relation to the Prophet was sound (*ṣaḥīḥ*) (Ibn ʿAbd al-Barr, *Intiqāʾ*, 198–9). But what did he mean by a sound *ḥadīth*?

The now established definition of *ṣaḥīḥ* as a technical term was not established in Abū Ḥanīfah's time but around one century after his death when al-Bukhārī's *Ṣaḥīḥ* and other, even later, collections of sound *ḥadīth*s were compiled. It is not sensible to criticize or justify Abū Ḥanīfah's approach in reference to terms and criteria developed after his death. It is more useful to understand his handling of *ḥadīth* in relation to that of his contemporaries like Sufyān al-Thawrī in Kufah, Mālik in Madinah, and al-Awzāʿī in Syria.

Many *ḥadīth*s have reached the community through different lines (*isnād*) of reliable narrators going all the way back to the Prophet himself. These types of *ḥadīth* are divided into two categories: *mutawātir* (narrated by many from many) and *mashhūr* (well-known, established), the two being, from the viewpoint of their legal weight, of equal merit. On the basis of such *ḥadīth*s, according to Abū Ḥanīfah, words of the Qur'ān whose import is general can be applied specifically, or the other way round. On this point all the scholars, specialists in *fiqh* and/or *ḥadīth*, are in agreement. However, a great many *ḥadīth*s, known through a single line of narrators, did not reach the rank of *mutawātir* or *mashhūr*. With these *ḥadīth*s, termed *āḥād* or *khabar al-wāḥid*, it was necessary to be careful and check the *isnād* thoroughly. They could then be graded, depending on the qualities of the *isnād* and the narrators in it, from the highest ('sound') to the lowest ('fabricated'), with those in between ranked in various grades of 'weak'.

The number of narrators between Abu Ḥanifah and the Prophet are mostly two, three, or four: all his teachers are Successors narrating directly from a Companion or from an older Successor. Because of this highness of his *isnād*, it was relatively easy for Abū Ḥanīfah to know the quality of a *ḥadīth*. For later generations, however, as the number of intermediary narrators increased, the testing procedures had to be tougher. That is why we find some *ḥadīth*s classed as 'weak' by later *ḥadīth* specialists that had been regarded by the early jurists as 'sound'. An example of this is the *ḥadīth mursal*, that is, a Prophetic *ḥadīth* narrated from a Successor without explicit mention of the linking authority (i.e. a Companion) between that Successor and the Prophet. To Abū Ḥanīfah the absence of this link did not, by itself, make a *ḥadīth* weak. The Successors who narrated directly from the Prophet were, in most cases, Abū Ḥanīfah's teachers or teachers of his teachers, and he knew from their practice that they never attributed a *ḥadīth* to the Prophet unless sure that it was from him. In instances where a Successor who was a teacher of Abū Ḥanīfah, or one above him, did this, Abū Ḥanīfah did not class his *ḥadīth* as weak just because of the missing link. We know from reliable reports from many Successors that their consistent practice was to say 'the Prophet said' when they heard the *ḥadīth* from more than one narrator, and to name the narrator if they had heard it from only one individual.

Like most of the leading scholars of his time (Mālik, Layth, al-Awzāʿī, Sufyān al-Thawrī and others), Abū Ḥanīfah held that a *mursal ḥadīth* can be sound. Al-Shāfiʿī (d. 204) was the first to divide the *mursal* into two categories: those narrated by an older Successor like Saʿīd ibn Musayyab, and those narrated by a younger successor like al-Zuhrī. Al-Shāfiʿī accepted the former as authentic, but not the latter because younger Successors often narrated from another Successor and so it was not certain if the missing link is a Companion or a Successor. *Ḥadīth* specialists of the later period, like al-Bukhārī and others, did not accept the *mursal* at all.

Abū Ḥanīfah held the use of *āḥād ḥadīths*, even if known to be sound, as conjectural (*ẓannī*), and refused such reports when describing issues of faith and creed. Such issues could only be described on the basis of the Qurʾān or of *mutawatir* or *mashhūr ḥadīths*. Similarly, he did not accept *āḥād* reports on issues affecting actions if it entailed any departure from or amendment of the Qurʾān, such as changing general to particular, or unconditional to conditional. If no departure from the Qurʾān was entailed, Abū Ḥanīfah followed the sound *āḥād ḥadīths*, preferring them above reasoning by analogy (*qiyās*). For example, in one such *ḥadīth* it is narrated from the Companion, Abū Hurayrah, that the Prophet said: 'Whoever forgetfully eats or drinks while fasting, he should complete his fast.'[5] Abū Ḥanīfah followed the *ḥadīth*, though according to reason one's fast should be considered to have been broken when (for whatever reason) one eats or drinks. Abū Ḥanīfah said: 'Had there been no narration I would have followed *qiyās*' (Dhahabī, *Siyar*, ii. 620)

If the *āḥād* reports differed from each other, Abū Ḥanīfah preferred the stronger to the less strong. If they were equally strong he preferred the *ḥadīths* of his Kufan teachers to those of others. We have an example of this in his debate with al-Awzaʿī, which took place in Makkah. Al-Awzāʿī said: 'I am surprised that people of Iraq do not raise their hands when going into *rukuʿ* and rising from *rukuʿ*, while I have heard from al-Zuhrī, who heard from Sālim ibn ʿAbdillāh, who heard his father ʿAbdullāh ibn ʿUmar say that the Prophet used to raise his hands [when making] these movements.' To this Abū Ḥanīfah replied: 'I heard from Ḥammād, from Ibrāhīm al-Nakhaʿī, from ʿAlqamah, from ʿAbdullāh ibn Masʿūd that the Prophet did not raise his hands when moving to these positions.' Abū Ḥanīfah explained further that the people of his chain of narration get preference over

[5] Muslim, *Ṣaḥīḥ*, k. *al-Ṣiyam*, b. *Akl al-nasi wa shurbu-hu wa jimāʿu-hu lā yufṭir*.

those of the other, because they were the more expert in *fiqh*. (See Shiblī, *al-Nuʿmān*, 77.)

## PREFERENCE BETWEEN *ḤADĪTH* AND *QIYĀS*

One group of Ḥanafīs, like Abū l-Ḥasan al-Karkhī (d. 340), hold that in the *fiqh* of Abū Ḥanīfah, a *ḥadīth* is preferred over *qiyās* unconditionally. Another group says that a *ḥadīth* is preferred only on certain conditions, such as the narrator being a jurist. One can readily find in Ḥanafī *fiqh* examples of both – preference of *ḥadīth* over *qiyās* and vice versa. Among the obvious examples of preference of a *khabar al-wāḥid* over *qiyās* is, following the *ḥadīth* of Abū l-ʿĀliyah, the invalidation of prayer and *wuḍūʾ* if the one praying bursts into laughter. Among the examples of leaving a *khabar al-wāḥid* when it is against the rules of *qiyās* is the *ḥadīth* from Abū Hurayrah that the Prophet said: 'Don't keep camels and sheep unmilked for a long time. Whoever has bought such an animal can milk it and then either keep it or return it to the owner [i.e. cancel the purchase] with a *ṣāʿ* of dates [in compensation for the milk].'[6] Abū Ḥanīfah did not regard *taṣriyah*, keeping an animal unmilked, as a fault that should necessarily invalidate the contract of sale of that animal. Nevertheless, he did give the buyer the right to renegotiate the price in light of possible wilful deception as to the weight of the animal.

Though it may appear so, there is no inconsistency in fact in Abū Ḥanīfah's practice. As the examples above illustrate, he distinguished issues related to the rites of worship (*ʿibādāt*) from those not so related. In the *ʿibādāt*, he adhered firmly to the texts of Qurʾān and Sunnah. In his view, the details of the rites of worship are not susceptible to variation by reasoning, hence there is no question of *qiyās*. By contrast, for everyday affairs such as contracts, the details of

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[6] Bukhārī, *Ṣaḥīḥ*, k. *al-Buyūʿ*, b. *al-Nahy li-l-bāʾiʿ an lā yuḥaffil*.

the law are susceptible to rational tests of utility or equity and the like. Accordingly, for such issues, he used *qiyās* and preferred it above an *āḥād* report unless that report came from a narrator who was a jurist.

## *IJMĀ*ʿ AND *QIYĀS*

*Ijmā*ʿ (consensus) referred originally to the consensus of the Companions of the Prophet, then by extension to the consensus of qualified legal scholars of a given generation. Its relevance as a source of law is ultimately based upon Qurʾān and Sunnah. The Qurʾān (*al-Nisā*ʾ, 4: 115) says: 'And whoever opposes the Messenger after the guidance has been manifested to him, and follows other than the believers' way, We appoint for him that to which he himself has turned, and expose him to hell – a wretched journey's end.' The Prophet said: 'My people will never all agree upon error.'[7] The example of *ijmā*ʿ most often cited by the experts of jurisprudence is the consensus of the Companions on the selection of Abū Bakr as caliph and, after him, of ʿUmar. Another example is related to the so-called 'prohibited degrees' in marriage. The Qurʾān forbids a man to marry two sisters at the same time. On the basis of a single *ḥadīth* narrated by Abū Hurayrah, the Companions were unanimous that that prohibition extends to the woman's maternal and paternal aunts.

### *Qiyās*

The use of *qiyās* (juristic analogy) to derive appropriate legal rulings entails *ijtihād*. The legitimacy of such effort to interpret and extend the law is, again, based on Qurʾān and Sunnah. The following *ḥadīth* is often quoted:

> On the appointment of Muʿādh ibn Jabal as a judge and governor [to the people] of Yemen, the Prophet asked him: 'According to what will you judge?'

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[7] Ibn Mājah, *Sunan*, k. *al-Fitan*, b. *al-Sawād al-aʿẓam*.

He replied: 'According to the Book of God.' The Prophet asked: 'And if you do not find it in the Book of God?' Muʿādh said: 'Then I will judge on the basis of the Sunnah of His Prophet.' The Prophet asked him: 'If you do not find it in either the Qurʾān or the Sunnah?' Then Muʿādh said: 'I will exert myself to form my own judgment.' On this the Prophet said: 'Praise is due to God who has guided the messenger of His Messenger to that which pleases him.'[8]

*Qiyās* has been defined in different ways, but the most popular definition is: to derive a new ruling by analogy with an existing ruling on the basis of the existence, in the two cases, of a common legal cause (*ʿillah*). It may be more easily understood through examples.

On the basis of the Qurʾānic verses (*al-Nisāʾ*, 4: 5–6) – 'Give not the wealth of the weak-minded, which is in your keeping, and which God has given you to maintain, to them; rather, feed and clothe them from it and speak kindly to them. Test orphans till they reach the marriageable age. Then, if you find them to be of sound judgment, deliver over to them their fortune' – Abū Ḥanīfah derived the rule that all transactions by a minor are legally invalid without the permission of a legally competent guardian. The common legal cause (*ʿillah*) in this case is weakness or immaturity of understanding.

By analogy with Qurʾān 5: 90, Abū Ḥanīfah extended the prohibition of 'strong drink' to all intoxicants, the *ʿillah* here being the dangers of intoxication.

On the basis of the Qurʾānic verse (*al-Jumuʿah*, 62: 9) – '...when the call is heard for the prayer of Friday, hasten to the remembrance of God and leave your trading' – Abū Ḥanīfah ruled that all kinds of business transactions, indeed any preoccupations that might prevent a believer from offering the Friday prayer in congregation, become forbidden after the call to prayer.

Abū Ḥanīfah worked out with great care the distinct elements of a juristic analogy, and the conditions that must be met if the analogy is to be valid. The four elements of analogy are (1) the original situation

[8] Abū Dāwūd, *Sunan*, k. *al-Aqḍiya*, b. *Ijtihād al-raʾy fī l-qaḍāʾ*.

(*aṣl* or *maqīs ʿalayh*), for which (2) there is an established rule in the texts (*ḥukm al-aṣl*); (3) the new or comparable situation for which a ruling is sought (*farʿ* or *maqīs*); and (4) the *ʿillah* (*ratio legis*), the legal ground on which the original ruling is based.

For an analogy to be valid, it must, according to Abū Ḥanīfah, meet the following conditions:

*First condition*: The *ʿillah* of the original case should be susceptible of rational understanding and explanation. If it is not, there is no possibility of extending the ruling to a new situation because the analogy cannot be rationally justified.

*Example 1.* Normally the ablution necessary before prayer and other acts of worship is done with clean water. But what if the water is mixed with something? ʿAbdullāh ibn Masʿūd narrated this *ḥadīth*: 'On the night when the jinn listened to the Qurʾān, the Prophet said [to me]: What is in your water bag? I said: I have some *nabīdh*. The Prophet said: *Nabīdh* is wholesome dates and clean water.'[9] By referring to this *nabīdh* as 'clean water', the Prophet made its use for ablution permissible. Abū Ḥanīfah ruled accordingly. However, the legal ground for permitting that *nabīdh* is not clear to common sense; the general common sense position remains that, if mixed with something, water is not fit for doing *wuḍūʾ*. Abū Ḥanīfah therefore took the view that the Prophet's permission to use *nabīdh* for ablution could not be safely extended either to a *nabīdh* other than the one (containing 'wholesome dates') mentioned by the Prophet, nor to other kinds of liquid.

*Example 2.* On the basis of a *ḥadīth*, in the event that a worshipper laughs out loud during the prayer, the prayer and the ablution preceding it become void, and both must be done again properly. One can understand that laughing out loud would void the prayer; it is not immediately clear why it should void the ablution also. It is therefore

[9] Abū Dāwūd, *Sunan*, k. *al-Ṭahārah*, b. *al-Wuḍūʾ bi-l-nabīdh*.

impossible to generalize the ruling and extend it to other than the formal prayer-rite (*ṣalāh*). It cannot be applied to the funeral prayer or to prostration when reciting those verses of the Qurʾān that command prostration. According to Abu Ḥanifah, if a man laughs loudly in the funeral prayer, his ablution does not become void.

*Second condition*: The situation for which a ruling is sought should not be one on which an established ruling already exists in the texts. If the matter is covered in the Qurʾān or Sunnah, then any addition to or amendment of it by analogy with some other ruling is invalid.

*Example*. The verse (*al-Nisaʾ*, 4: 92) – 'He who has killed a believer by mistake must set free a believing slave' – specifies that the slave to be emancipated must be a believer. However, in another verse (*al-Māʾidah*, 5: 89), the expiation specified for breaking an oath – 'The expiation of it is feeding ten needy people with what you feed your own folk, or clothing them, or setting free a slave' – does not mention that the slave to be emancipated must be a believer. Because the expiation for a broken oath is itself prescribed in the text, no further or different condition can be adjoined to it by analogy.

*Third condition*: If the original ruling in the original situation is exceptional in nature, it cannot be extended by analogy to yield a new ruling for a new situation. The reason for this is that the *ʿillah* in such a case is by definition not susceptible to generalization, it remains confined to the particular case.

*Example*. The Prophet accepted as legal testimony the evidence on its own of one of his Companions, Khuzaymah, even though the law, derived from Qurʾān 2: 282, requires the testimony of two witnesses. In this case the exception was based upon the Prophet's unique insight into the Khuzayma's character and quality, not on any generally available information opinion about the man. The situation cannot therefore be generalized or the same exception made in any other situation.

*Fourth condition*: A ruling derived by juristic analogy must not necessitate any change in a ruling established in the texts or in the form of that ruling in those texts. If it does, the analogy is invalid.

*Example*. If water is not available or, for some special (usually medical) reason, water cannot be used for ablution, then *tayammum* is permissible. For *tayammum* to be valid, the believer must have a clear intention in mind as to what he is doing. The necessity of intention is derived from the Qurʾānic verse (4: 43) '*fa-tayammamū ṣaʿīdan ṭayyiban*'. But the principle that prior intention is obligatory cannot be extended to *wuḍuʾ* itself because the relevant Qurʾānic verse (5. 6) is free of any such condition. To add such a condition to *wuḍūʾ*, even if it seems reasonable or desirable, is not permissible, as it amounts to a will to amend the Qurʾānic text.

*Fifth condition*: The *ʿillah* on which the original ruling is based should not be closely bound to the original situation. If that is case, the *ʿillah* cannot be generalized and analogical extension of the ruling to a similar situation is unsafe.

*Example*. The longer prayers (of *ẓuhr*, *ʿaṣr*, *ʿishāʾ*) are halved when one is travelling. As Abū Ḥanīfah understood the relevant *ḥadīth*s, this relaxation of the normal practice is conditional upon travelling. It is not conditional on, for example, being in difficulty or under stress, but on being (according to Abū Ḥanīfah) at a certain distance from one's home and en route for some other place. Therefore, the halving of prayers cannot be extended to other situations through analogical reasoning.

Many scholars (among contemporaries and afterwards) misunderstood Abū Ḥanīfah's application of *qiyās*, simply because they failed to study and understand his methods of reasoning. In fact, he was very rigorous in following the conditions he set out, and detested *qiyas* not subject to strict rules and reasoning. He chose *qiyās* when he had exhausted the resources of Qurʾān and Sunnah known to him. Fuḍayl ibn ʿIyāḍ said: 'If there was a sound *ḥadīth* for the case, Abū Ḥanīfah

would follow it even if it was [a saying or practice] of the Companions or the Successors. Otherwise, he applied analogy and he was good in analogy' (Haytamī, *Khayrāt*, 95). Ibn Ḥazm said: 'All the students of Abū Ḥanīfah are unanimous that to Abū Ḥanīfah [even] the weak *ḥadīth* was preferable to *qiyās*.' (ibid., 98)

Abū Ḥanīfah is credited with developing *qiyās* into a well-ordered discipline. Because of the subtlety and refinement of analogy in his *fiqh*, al-Muzanī, the famous student of al-Shāfiʿī, spent so much time studying the Ḥanafīs' books that his nephew al-Ṭaḥāwī thought he must have adopted the *madhhab* of Abū Ḥanīfah. (ibid, 96)

## *ISTIḤSĀN*

*Istiḥsān* literally means to seek something preferable. As a term of *fiqh* it means to reject an obvious analogy in favour of one less obvious because implementing the former would lead to some rigidity or unfairness that undermines the beneficent purpose of the law as a whole. Its rationale is best understood through a concrete example.

Consider the question: are the leftovers of birds of prey like falcons and eagles, *ḥalal* or *ḥaram*? The obvious analogy is with the leftovers of beasts of prey like lions and wolves, which are *ḥarām*. That ruling is based on the fact that the flesh of carnivorous animals such as lions and wolves is itself *ḥarām* – when they eat the flesh of an animal, their saliva and other bodily fluids mix with the flesh they are eating, thus rendering that flesh also *ḥarām*. However, birds of prey eat with their beaks, and the beak is dry, not wet. Though a corpse is impure in general, the bone of the corpse is not: that being so, how can the bone of a living creature be impure? In this case its leftover should be regarded as pure, like the leftover of a human being.

Abū Ḥanīfah was an expert in the matter of *istiḥsān*. The followers of Mālik and Aḥmad ibn Ḥanbal also accept *istiḥsān* as a resort when *qiyās* leads to what contradicts the wisdom of the law. Mālik says:

'*Istiḥsan* is nine of the ten parts of knowledge'. The famous Mālikī scholar Aṣbagh says: 'Sometimes *istiḥsān* is more likely [to be right] than *qiyas*.' By contrast, al-Shāfiʿī has been quoted as saying: 'Whoever does *istiḥsān*, he is as one who has set himself as lawmaker' (Zuḥaylī, *Uṣūl al-fiqh*, ii. 17). However, al-Shāfiʿī's rejection of *istiḥsān* is only of that kind where no argumentation is presented, where the preference is merely personal or merely expedient and far removed from any commitment to decide by Qur'ān and Sunnah.

## CHARACTERISTICS OF ABŪ ḤANĪFAH'S *FIQH*

In broad terms, *fiqh* is characterized by a tendency to allow whatever can be allowed, and where a choice is possible, to choose the ruling that favours the poor and weak members of society. This is a general feature of the law, common to all jurists of all schools. The claim that one school is better than another in this respect is easy to contradict. In my view, what distinguishes the Ḥanafī school is not whether it is more or less 'easy', but its particular historical development and the quality and pattern of reasoning associated with it. With that in mind, I suggest that the following are the main characteristics of Ḥanafī *fiqh*:

### *The Kufan background*

As we saw earlier, the Ḥanafī school evolved from the school in Kufah, as the Mālikī school evolved in Madinah. Al-Shāfiʿī 'inherited' the school of Makkah, then added into it from the knowledge of both Madinah and Kufah, and was later profoundly influenced by the *ḥadīth* movement of Iraq. The Ḥanbalī school is really the school of *ahl al-ḥadīth*, which developed in the later half of the second century AH in Basrah, and was subsequently strengthened by Aḥmad ibn Ḥanbal, after whom it is named.

Abū Ḥanīfah inherited the school of Kufah. In the rituals of prayer, the daily business of life and juristic procedure he follows the

tradition of his city, relying implicitly on his teacher Ḥammād ibn Abī Sulaymān and his teacher, Ibrāhīm al-Nakhaʿī. He hardly ever departs from the tradition of his city to the opinions of jurists of other cities. If we collect Abū Ḥanīfah's differences from the latter, we can see clearly that he did not invent his rulings, rather he followed the practice of his city. For example, when he says that *wuḍūʾ* is broken by emission of blood or by laughing out loudly in the prayer, or by falling unconscious, he is not inventing but continuing the established way in Kufah. Similarly, he did not initiate the ruling that the one following in prayer should not recite from the Qurʾān behind the one leading it (i.e. the imām); or that the hands are raised in the prayer only at the first *Allāhu akbar*, or that the *bismillāh* is not said aloud, nor the *Amen* after recitation of the *Fātiḥah*; or that the way women raise their hands or sit or prostrate during prayer should be somewhat different from the way for men – in these and similar matters he did not invent but continued on the way of his predecessors. Attributing these and similar rulings directly to Abū Ḥanīfah is wrong, for these were practices common and established before his time in Kufah and indeed other cities.

### *Supremacy of the Qurʾānic text: following the Qurʾān, not* ḥadīth

In principle all jurists believe in the supremacy of the Qurʾān as the primary source of the law. More particularly, as was explained earlier, Abu Ḥanifah rejected any modification of a Qurʾānic ruling on the basis of *āḥād ḥadīth*s or *qiyās*. Al-Shāfiʿī and many other jurists did allow, on the basis of such *ḥadīth*s or *qiyās*, that, for example, what is general in the Qurʾān could be made particular, what is particular made general. Abû Ḥanīfah did not allow that. Here are some examples:

(1) The Qurʾān includes wet-nurses among the women it is forbidden to marry. But there is a *ḥadīth* that one or two occasions of breast-feeding do not establish a relationship comparable to a mother–child relationship. If one acts on this *ḥadīth*, the Qurʾānic ruling loses

its generality; doing so has the consequence that the restrictions on being in close contact with women one is permitted to marry apply. Abū Ḥanīfah, holding to the Qurʾān's command in its absolute generality, rules that marriage to a wet-nurse is forbidden whether she breast-fed the person just once or many times over a long period.

(2) Most jurists rule according to the *ḥadīth*: 'Any woman who marries without the permission of her guardian, her marriage is void.'[10] Abū Ḥanīfah holds that neither the consent nor presence of the guardian (although desirable) is necessary for the marriage to be valid. In this ruling he adheres to the implication of the Qurʾanic verse (*al-Baqarah*, 2: 232), which envisages that women can be agents of their marriage contracts: 'When you divorce women, and they reach their waiting period, do not prevent them from marrying their husbands.'

(3) When a woman is divorced she must wait for a certain period (the *ʿiddah*) before re-marriage is permissible. The Qurʾān clearly rules that the woman's accommodation and maintenance expenses during the *ʿiddah* are the husband's responsibility. However, in a well-known *ḥadīth* narrated by Fāṭimah bint Qays, the Prophet indicated, in the particular circumstances of her husband's divorcing her, that he need not provide support for Fāṭimah. Unlike other jurists who sought to act on the *ḥadīth* in some circumstances and by the Qurʾanic ruling in others, Abū Ḥanīfah held that the Qurʾānic ruling is applicable generally.[11]

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[10] Tirmidhī, *Sunan*, k. *al-Nikaḥ*, b. *Ma jaʾa la nikaḥ-ha ʿilla bi-wali.*

[11] The different juristic positions formulated in respect of the *ḥadīth* of Fāṭimah bint Qays are set out, with references, in M. A. Nadwi, *al-Muḥaddithāt*, Table 1, p. 31. The *ḥadīth* itself can be read in, e.g., Muslim, *Ṣaḥīḥ*, k. *al-Ṭalāq*, b. *al-Muṭallaqah thalāthan lā nafaqata la-hā.*

*Rites of worship: following* ḥadīth, *not reason*

Abū Ḥanīfah distinguished strictly between matters connected to formal religious rites and obligations (*ʿibadat*), and matters not so connected (*muʿāmalāt*). For the former he rules by the letter of reports about the instruction or practice of the Prophet and his Companions. He adheres to a sound report on *ʿibādāt*, even if it appears to go against ordinary reason. For example, it makes sense that bursting into loud laughter during prayer invalidates the prayer. However, a *ḥadīth* (from Abu l ʿĀliyah al-Riyāḥī) states that, in such a case, the Prophet told the people, in addition to re-doing the prayer, to re-do their ablution also.[12] Some jurists reasoned that bursting into laughter did not invalidate the *wuḍūʾ*, but Abū Ḥanīfah ruled according to the *ḥadīth*. Similarly, he ruled, according to the *ḥadīth* (from Abū Hurayrah)[13] that if someone while fasting eats or drinks absent-mindedly, his fast is not affected and he should complete it normally.

In both those cases the ruling in the *ḥadīth*s is intelligible – one can find reasons to support it. However, Abū Ḥanīfah held that the duty to discharge religious obligations in certain ways (though easier for being intelligible) depends on their being prescribed by God and/or His Messenger, not on their being intelligible. In fact, one could also, just as easily, give reasons for not doing the rites in the ways prescribed – this would make the *ʿibādāt* susceptible to dispute and a source of division. Far better to avoid the presumption that believers have or can acquire the authority to determine or amend the details of the *ʿibādāt*. The safe course is to accept that the wisdom in their being prescribed as they are is known with certainty only to God, and then, as closely as possible, follow the manner of the one whom He appointed as the imām of all the Muslims, namely the Prophet. For examples of how Abū Ḥanīfah refused, for the *ʿibādāt*, to use reason

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[12] al-Dāraquṭnī, *Sunan*, k. *al-Ṭahārah*, b. *Aḥadith al-qahqaha fi l-ṣalāh wa-ʿilali-hā*.
[13] Muslim, *Ṣaḥīḥ*, k. *al-Ṣiyām*, b. *Akl al-nāsī*.

to extend rulings from one context to an analogous one, see above, pp. 66–67. He was firmly convinced that the reasoning behind the details of worship being as they are cannot be known or understood with sufficient certainty to justify *qiyās*.

### *In matters not connected to the rites: following reason, not* ḥadīth

In matters disconnected from *ʿibādāt*, Abū Ḥanīfah preferred properly reasoned analogy over *āḥād ḥadīth*s where doing so better served the broad principles of the law and the benefit of individuals and society. For example, he did not rule according to the *ḥadīth* that 'no *zakāh* (alms-tax) is due from a Muslim on his horses'.[14] He argued that it is known from the general principles of the law that *zakāh* is due on any wealth that increases. Accordingly, if one owns horses and there are male and female among them and they mostly graze in the open, they are liable to *zakāh* just like other livestock. There is no reason to exempt horses. He follows the *ḥadīth* allowing such exemption only for horses kept for personal use.

Another example: On the basis of the *ḥadīth*, 'You and your wealth belong to your father',[15] some jurists held that a father can take from his son's property without permission. Abū Ḥanīfah again upholds the general legal principle that rights of property must be honoured. No one, including the father, may take from another's property or wealth without permission. Abū Ḥanīfah interprets the *ḥadīth* as conditional on need: only if the father is poor may he spend from his son's wealth; otherwise, he must return whatever he takes from it.

### *His preference for reports narrated by jurists*

Where it was necessary to choose, Abū Ḥanīfah preferred a report narrated by a jurist over one narrated by a non-jurist. There is, for

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14 Bukhārī, *Ṣaḥīḥ*, k. *al-Zakāh*, b. *Laysa ʿalā l-muslim fī farasi-hi ṣadaqah*.

15 Ibn Mājah, *Sunan*, k. *al-Tijarāt*, b. *Mā li-l-rajul min māl waladi-h*.

example, no perceptible difference in reliability as narrators between Ḥammād and al-Aʿmash, Ibrāhīm al-Nakhaʿī and Abū Wāʾil. However, Abū Ḥanīfah preferred the reports of Ḥammad and Ibrāhim because they were trusted as jurists, while al-Aʿmash and Abū Wāʾil were trusted mainly as narrators. Indeed, Abū Ḥanīfah even preferred a non-Prophetic juristic report over a non-juristic Prophetic report. Thus he preferred to follow the fatwās of ʿUmar and Ibn Masʿūd narrated by Ibrāhīm al-Nakhaʿī over *āḥād ḥadīth*s narrated by those who had no reputation as jurists.

There is an abundance of instances in Ḥanafi *fiqh* where *aḥad ḥadīth*s have been left in favour of the known practice of the Companions, especially a judgement of ʿUmar, the second caliph, or a fatwā of Ibn Masʿūd. For example, following the practice of ʿUmar, Abū Ḥanīfah holds that the *witr* prayer is three *rakʿah*s, although there are *ḥadīth*s that allow that it may be a single *rakʿah*. He disallows any *nafl* (supererogatory) prayer between *ʿaṣr* prayer and sunset, again following ʿUmar, who used severely to reprimand people he found praying after *ʿaṣr* and before *maghrib*; Ibrāhīm al-Nakhaʿī used to say: 'The prayer of a person at the time when the sun becomes red in the evening is not worth two pence' (Abū Ḥanīfah, *K. al-Āthār*, 41). The basis of the Ḥanafi ruling that a traveller intending to stay in a place for fifteen days or more is to do the full prayer, not the shortened form allowed to one travelling, is a fatwā by the caliph ʿUmar's son, ʿAbdullāh. (ibid., 49)

## *AHL AL-RAʾY* AND *AHL AL-ḤADĪTH*

In this section I take up the question of why Abū Ḥanīfah was the object of criticism from a group of scholars – or, rather, a tendency among scholars – later known by the shorthand label *ahl al-ḥadīth*, 'the people of *ḥadīth*'. That label was used in contradistinction to *ahl al-raʾy*, 'the people of opinion', meaning people who preferred their own

opinion or judgement rather than the Sunnah, which was preserved in the *ḥadīth* of the Prophet and the *āthār* of the Companions. In the previous chapter I recorded some instances where an eminent scholar, who had held a negative opinion of Abū Ḥanīfah, revised that opinion when he got to know the work or the man better. It is indeed the case that the criticisms of Abū Ḥanīfah's *fiqh* are based upon lack of information or misinformation about him or 'the people of Iraq' generally. Nevertheless, it is worthwhile to reflect on the fact of criticism because it helps one to appreciate more fully the nature of Abū Ḥanīfah's achievement. We must begin by differentiating the disciplines of *ḥadīth* and *fiqh*.

Already by the time of Abū Ḥanīfah, that is the generation of the students of the Successors, the disciplines of *ḥadīth* and *fiqh* were differentiated. Even in the generation of the Companions, the number of people relied upon for *fiqh* and *ijtihād* was fewer than 120, while thousands were relied on for transmission of *ḥadīth*s. The same proportion, with greatly increased numbers, obtained in later generations. The reason is that reliable transmission of a report demands ability to preserve it accurately in memory or writing, then to transmit and pass it on without amendment or alteration. The effort to do *ijtihad*, on the other hand, demands expertise in Arabic, the language of the source texts (Qur'ān and *ḥadīth*s), the ability to bring to bear on an issue the relevant, different texts and to sift their juristic implications, to reconcile apparent differences among them, while at the same time understanding the purposes and principles expressed in the sources at a level of generality sufficient to enable application in different circumstances. There were some highly talented individuals whose abilities encompassed accurate, comprehensive preservation and transmission of *ḥadīth*s, and the understanding of these texts as law (*fiqh*). Even so, there was a division of emphasis, of tendency, reflecting a different understanding of what it was best, at that time, to do in the interest of preserving the religion.

Some sensed danger in circulating *ḥadīth*s whose context had not been fully or accurately remembered and whose implications were therefore not always evident. The danger was that one risked extending the authority of the Prophet's teaching and example to some attitude or practice which, because not properly understood, was inconsistent with some other attitude or practice, or which led to behaviour that, overall, was taking people away from the Sunnah. On the other side, people sensed danger in deriving from the *ḥadīth*s laws and legal principles that were not directly and explicitly expressed in that way in the *ḥadīth*s themselves. The danger was that one risked adding something to or making some alteration in the religion as revealed.

For this reason we find that, among the first three generations of Islam, those whose expertise was more on the side of *ḥadīth* did do *ijtihād* but only reluctantly, as little as possible, and very tentatively. On the other hand, those whose expertise inclined more to *fiqh* also narrated *ḥadīth*s, but did so as little as possible, tentatively, fearful of, as it were, putting words in the Prophet's mouth. Abū ʿAmr al-Shaybānī said: 'I sat before ʿAbdullāh ibn Masʿūd for a whole year. [During that time] he did not say: "The Messenger of God says". If he said, "the Messenger of God said", he would tremble, always adding [such phrases as] "like this" or "like that" or "close to that".' ʿAbdullāh ibn Masʿūd preferred giving a fatwā with his *raʾy* to narration of *ḥadīth*. (al-Dārimī, *Sunan*, Preface, i. 88–9)

Towards the end of the generation of the Companions schisms and sects arose, partly in connection with political divisions among the Muslims, partly in connection with the influence of newcomers to the religion. These sects were mostly found in Iraq, in Kufah and Basrah particularly. Their adherents began to interpret the Qurʾān in order to bolster support for their doctrines. The Companions criticized them, making it clear that the reason for the error of their doctrines was their rejection of the Sunnah and their reliance, instead, on their own opinion (*raʾy*). After the generation of the Companion these

sects went even further in rejecting the Sunnah. Those Muslims who adhered to Qur'ān and Sunnah regarded reliance upon opinion in matters of faith and religion as utterly reprehensible. The Companions and their students (the Successors) only resorted to *ra'y* in the absence of an appropriate ruling in the Qur'ān, or in the reliably reported Sunnah of the Prophet or in the judgments of the first four caliphs. Then, when they used their own reasoning to reach a judgement, they did it in a principled way, adhering closely to the rules of the language and the fundamentals of the religion.

We may conclude then that, at the time of the Successors and their students, there were two kinds of *ra'y* being practised: the *ra'y* of the jurists, which was dependent on the Qur'ān and Sunnah and the fundamentals of the religion; and the *ra'y* of the schismatics who observed no such limits, indeed sought to change the fundamentals of the religion. The judgements of the latter were not immediately recognizable as belonging in or with the language and spirit of Islam, the judgements of the former were. A further distinction needs to made, however: among the jurists who practised *ra'y* some turned to it readily, some reluctantly. That, in broad terms, is the distinction between the Madinan and the Kufan schools of *fiqh* of this early period. Although some Madinan scholars (for example, Rabi'at al-Ra'y the famous teacher of Mālik ibn Anas) used *ra'y* extensively, most sought to avoid it when they could, and they made a point of not discussing hypothetical cases. In Kufah, by contrast, the jurists had been using *ra'y* since the time of 'Abdullāh ibn Mas'ūd. Also they made a point of discussing hypothetical cases, which enabled them to test principles and procedures, and trained them to apply them consistently. The work of Abū Ḥanīfah carried this Kufan tradition to its maturity.

It is not hard to imagine – if the general legal principles and particular points of law that Abū Ḥanīfah expounded were reported at second hand in Madinah or Damascus, and reported separately

from the source texts from which they were derived, and if (on top of that) it was reported that the man doing this was from Kufah – it is not hard to imagine the first impression that the pious scholars of Madinah and Damascus would form. They were bound to fear that here was another intellectual Kufan of Persian ancestry trying to make changes in the religion revealed in the Qurʾān, trying to direct it away from the Sunnah. However, as soon as these scholars had direct experience of Abū Ḥanīfah's work, once they had seen and reflected on how it proceeded from the sources, they admired it and affirmed its belonging in the Islam of the Qurʾān and Sunnah. Examples of how Abū Ḥanīfah's reputation among contemporary masters of *ḥadīth* and *fiqh* shifted from suspicion to awe and admiration were given in the previous chapter.

The difference between *ahl al-ḥadīth* and *ahl al-raʾy* sometimes widened and sometimes narrowed over the succeeding generations. In part this is a function of how the disciplines of *ḥadīth* and *fiqh* evolved, especially the former. The importance of accuracy in the reporting of *ḥadīth*s had always been understood and gave rise, even as early as the generation of the Successors, to the scholarly habit of naming the authorities through whom the *ḥadīth*s were reported. As the numbers of students and narrators of *ḥadīth* grew, so too did the scholarly practice of naming sources. This in turn led to the development of the sub-discipline of *rijāl* (literally, 'men'), the study of the narrators and chains of narrators. Strict rules were established to determine the authenticity and reliability of links between narrators, to evaluate the best chains of transmission from particular Companions, and to record variora in the texts of the *ḥadīth*s. (Abū Ḥanīfah's contribution to *rijāl* will be touched upon in the next chapter.) Study of the variora gave rise to further sub-disciplines concerned with classifying *ḥadīth*s according to the quality and reliability of their chain of authorities, identifying weaknesses in the texts and so on. The science of *ḥadīth* reached its perfection in the generation of al-Bukhārī

(d. 256) and Muslim (d. 261): neither the methodology used, nor the corpus of authenticated ḥadīth texts, changed significantly after this. Both of these men were fully aware of their debt to their predecessors, teachers whose work they carried toward perfection. Those teachers in turn had their masters in the generation of Abū Ḥanīfah. The *Ṣaḥīḥ*, al-Bukhārī's great compilation of *ḥadīth*s, is arranged and organized as an expression of his *fiqh*, as his chapter-titles famously make clear. Nevertheless, it is the work of a *ḥadīth* expert, a *muḥaddith*, not a *faqīh*. His criticisms of Abū Ḥanīfah (all of them are misplaced) are the criticisms of a *ḥadīth* expert on the work of a *faqīh*.

The great masters of *ḥadīth* in the generation of al-Bukhārī's teachers were Yaḥyā ibn Maʿīn (d. 233), ʿAlī ibn al-Madīnī (d. 234), Ibn Abī Shaybah (d. 235), and Aḥmad ibn Ḥanbal (d. 241). Ibn Abī Shaybah compiled a massive collection of *ḥadīth*s and *āthār*, known simply as *al-Muṣannaf*. In this work there is a chapter in refutation of Abū Ḥanīfah, which is representative of the concerns of *ḥadīth* experts about the *fiqh* of Abū Ḥanīfah. In it he discusses 125 issues where, he argues, Abū Ḥanīfah did not (as he should) follow *ḥadīth*.

Many later scholars have analysed Ibn Abī Shaybah's refutation of Abū Ḥanīfah in a degree of detail that cannot be easily summarized. In broad terms, the defence of Abū Ḥanīfah argues: 1) As he ruled on thousands of issues, 125 does not qualify as significant in respect of his *fiqh* as a whole. 2) In 60 (nearly half) of those 125 issues Abū Ḥanīfah does adduce *ḥadīth*s to support his rulings, but not the ones that Ibn Abī Shaybah would have liked him to have adduced. 3) In 20 of the remaining issues, Abū Ḥanīfah has preferred Qurʾānic verses or the *mutawātir* (most widely reported) Sunnah to *āḥād ḥadīth*s. It is a well-known principle of Abū Ḥanīfah's *fiqh* that if the source texts cannot be reconciled, then the stronger must be preferred: thus, the Qurʾān is preferred to the *ḥadīth*, a *sunnah* reported by many is preferred to a *sunnah* reported by one person, and so on. 4) On a few issues Ibn Abī Shaybah has, in error, attributed rulings to Abū Ḥanīfah, which

are not found in the Ḥanafī doctrine. 5) There are ten issues where the controversy arises only because it is possible to understand the relevant *ḥadīth*s in different ways, as happens with most texts. 6) A few examples remain where one may concede that the arguments of the *ḥadīth* expert are stronger than those of the *faqīh*. But given the scale of Abū Ḥanīfah's work, this is hardly a serious criticism.

In fact the criticism of Abū Ḥanīfah by Ibn Abī Shaybah and others contributed to the recognition of the centrality of Ḥanafī *fiqh*. (In the same way the critique of al-Bukhārī by al-Dāraquṭnī would play an important part in affirming and strengthening the reputation of al-Bukhārī's *Ṣaḥīḥ* as the most important compilation of *ḥadīth*s.) Because of the support of the ʿAbbāsid state, Ḥanafī *fiqh* was, by the time of Ibn Abī Shaybah, already on the way to being established as the most widely applied form of the law in the Islamic world. Ibn Abī Shaybah acted responsibly in seeking to point out, for the benefit of his fellow-Muslims, those issues where he thought Abū Ḥanīfah had deviated from the *ḥadīth*. He had no private grievance against him; had he been motivated to attack the man or his reputation he might have criticized him on more serious issues, matters related to the creed, but he did not. His criticism is confined to *fiqh*-related issues. On each of those issues Abū Ḥanīfah's position is shared by other jurists in Islam, especially other Kufans, but Abū Ḥanīfah's prestige and reputation were such that they were identified with his name. It is for that reason that Ibn Abī Shaybah directs his criticism to Abū Ḥanīfah. That he had no personal enmity against Abū Ḥanīfah is also attested by the fact that Ibn Abī Shaybah's book contains 42 reports which include Abū Ḥanīfah among the narrators.

Most *ḥadīth* experts were well aware that *ḥadīth* and *fiqh* are distinct disciplines. They devoted lifetimes to the science of *ḥadīth*, yet recognized that, as regards *fiqh*, they must follow the experts of that discipline. The majority of the great imāms of *ḥadīth* followed the great imāms of *fiqh* in juristic problems, and the greater number of

them followed Abū Ḥanīfah. The most famous of them are: ʿAbdullāh ibn al-Mubārak, Misʿar ibn Kidām (d. 155), Wakīʿ ibn al-Jarrāḥ (d. 197), Yaḥyā ibn Saʿīd al-Qaṭṭān (d. 198), and Yaḥyā ibn Maʿīn.

ʿAbdullāh ibn al-Mubārak said: 'I have not seen anyone as learned as Abū Ḥanīfah in the knowledge of *fiqh*' (Baghdādī, *Taʾrīkh*, xiii. 343). Yaḥyā ibn Maʿīn said: '*Fiqh* is the *fiqh* of Abū Ḥanīfah; this is what I have found people on' (Haytamī, *Khayrāt*, 112). He also said: 'Yaḥyā ibn Saʿīd al-Qaṭṭān used to follow the fatwās of the jurists of Kufah; he used to choose Abū Ḥanīfah's sayings from among their sayings; and he used to follow Abū Ḥanīfah's opinions from among the opinions of his students.' (Baghdādī, *Taʾrīkh*, xiii. 346)

Someone put a question to the great scholar of *ḥadīth* al-Aʿmash while Abū Ḥanīfah was present. Al-Aʿmash asked Abū Ḥanīfah what he would say in answer. When Abū Ḥanīfah gave his answer, al-Aʿmash asked him: 'Where did you get this? Abū Ḥanīfah said: You narrated it to us from Abū Ṣāliḥ from Abū Hurayrah, from Abū Wāʾil from ʿAbdullāh, and from Abū Iyās from Abū Masʿūd al-Anṣārī, that the Messenger of God said so and so; and you narrated to us from Abū Mijlaz from Ḥudhayfah from the Prophet so and so; and you narrated to us from Abū l-Zubayr from Jābir so and so; and you narrated to us from Yazīd al-Raqqāshī from Anas from the Prophet so and so. Al-Aʿmash said: That is enough! What I narrated to you in a hundred days, you have narrated to me in an hour. I did not know that you apply these *ḥadīth*s. You jurists are doctors and we are pharmacists, and you are a man who has got hold of both sides' (Thānawī, *Abū Ḥanīfah*, 18–19).

The great experts of *fiqh* contemporary with Abū Ḥanīfah (al-Awzāʿī, Abū Jaʿfar Muḥammad ibn ʿAlī known as Bāqir, and Mālik ibn Anas), initially doubtful about his method on some points, were soon convinced by the depth of his knowledge and accepted him as an authority in *fiqh*. In Iraq, Sufyān al-Thawrī and Shuʿbah praised

him, and Sufyān is known to have studied his books. (Baghdādī, *Ta'rīkh*, xiii. 342)

Having studied the *Muwaṭṭā* with Mālik, al-Shāfiʿī, with Mālik's permission, left for Iraq and spent his time studying *fiqh* with Abū Ḥanīfah's student Muḥammad al-Shaybānī. Al-Shāfiʿī said: 'I carried from Muḥammad a camel-load of books' (Dhahabī, *Siyar*, ix. 135). He also said: 'One who wants to be a specialist in knowledge of *fiqh* should read Abū Ḥanīfah's books' (Haytamī, *Khayrāt*, 103). Aḥmad ibn Ḥanbal studied with Qāḍī Abū Yusuf in Baghdad, and through him became well-acquainted with the opinions of Abū Ḥanīfah and his students. Once asked where he got the fine juristic points he expounded, he said: 'From the books of Muḥammad ibn al-Ḥasan al-Shaybānī.' (Dhahabī, *Siyar*, ix. 136)

Al Shaybānī himself studied the *Muwaṭṭā* of Mālik with its author in Madinah. There he became aware of many of the objections that the Madinans had to the school of Kufah. He then wrote *Kitāb al-Ḥujjah ʿalā ahl al-Madīnah*, a systematic defence, against those objections, of the dicta and method of Abū Ḥanīfah. Stated briefly, Abū Ḥanīfah's great achievement, which eventually informed the thinking of the other schools of the law, was to locate what was universal in the sources, the Qur'ān and Sunnah, so that the law became the formative agent of a dynamic social order, equipping the Muslims with a strong and distinctively Islamic way of thinking and living, vigorous enough to encounter and assimilate influences from older cultures without loss. It is because the pioneers of Islamic law, Abū Ḥanīfah foremost among them, had strengthened the society with the law, that when the intellectual legacy of the Mediterranean and Persian worlds began to be translated into Arabic, those elements of philosophy or mystical aspiration that were able to strike any roots at all among the Muslims branched and blossomed in some degree of harmony with distinctively Islamic manners and values; while some elements of the legacy available to the Muslims, despite the great cultural prestige

attached to them (the Roman law, for example) made no impression at all. The great scholar Misʿar ibn Kidām said: 'Whoever sets Abū Ḥanīfah between himself and God, I have hope that such a one will have no [cause of] fear, and that he has done his best to choose the way of caution.' Asked why he followed the opinion of Abū Ḥanīfah, Misʿar said: 'Because of its soundness. So, bring me something more sound than it, then I will follow it.' Ibn al-Mubārak said: 'I saw Miʿsar in the circle of Abū Ḥanīfah putting questions to him and benefiting from him, and he used to say: I have not seen anyone more expert in *fiqh* than him.' (Haytamī, *Khayrāt*, 109)

4

# His works and his students

With very few exceptions, the writings of Abū Ḥanīfah are lost. We are certain of their former existence because people referred to them in works that do survive. The compilation of the laws, his master work, was undoubtedly in circulation during his lifetime. Reliable authorities confirm it. Ibn Hajar al-Makkī said: 'Abū Ḥanīfah is the first who compiled the science of *fiqh*, and organized it in books and chapters as it is now. Imām Mālik followed him in his *Muwaṭṭā*. Before Abū Ḥanīfah, people relied on their memory. Abū Ḥanīfah is the first who wrote down the book of inheritance, the book of conditions [i.e. in legal contracts]' (Haytamī, *Khayrāt*, 100–1). His *fiqh* was extended by his students through their writings, teaching, and work as judges and administrators. His compilation of laws is partly embodied in the extant work of two of his students in particular, Qāḍī Abū Yūsuf and Muḥammad ibn al-Ḥasan al-Shaybānī.

It is not easy to put together a complete list of Abu Ḥanifah's works. Ibn al-Nadīm (d. 380) listed four titles in his *Fihrist*: *al-Fiqh al-akbar*, *Risālah ʿUthmān al-Battī*, *Kitāb al-ʿĀlim wa-l-mutaʿallim* and *K. al-Radd ʿalā l-qadariyyah*. More recently, in the last century, two scholars listed the following additional titles attributed to Abū Ḥanifah in the writings of early scholars. They are: *Kitāb al-Ṣalāh*, *K. al-Manāsik*, *K. al-*

*Rahn, K. al-Shurūṭ, K. al-Farāʾiḍ, K. al-Āthar, al-Risalah, K. al-Irjāʾ, K. al-Waṣiyyah, K. al Radd ʿala l-Awzāʿī, K. al-Raʾy, K. Ikhtilāf al-ṣaḥāba, K. al-Jāmiʿ, K. al-Siyar, al-Kitāb al-awsaṭ, al-Fiqh al-akbar, al-Fiqh al-awsaṭ.* Some of these works appear to have been parts of his *fiqh* compilation, others were probably brief treatises.

## *KALĀM*: DOGMATICS AND THEOLOGY

*Kalām* was, in Abū Ḥanīfah's time, in its early stage, and had not yet overwhelmed the discussion of Islamic religious questions. The Arabs had a firm grasp of what is said in the Qurʾan about God's essence and attributes, the beginning and end of the world, and similar questions, and their faith was direct and straightforward. Among the Muslims of Persia and Syria, however, this direct, straightforward faith became complicated. Removed from the conviction of those who had witnessed revelation and the Prophet's Sunnah at first hand, even ordinary questions of belief were subjected to hair-splitting anxieties. Different schools of thought emerged, such as the Qadariyyah, the Murjiʾah, the Muʿtazilah, the Jahmiyyah, the Khawārij and the Rawāfiḍ. Because schism seemed to be gaining ground, those who had hitherto shunned controversies of this kind, felt compelled to get involved, if for no other reason than to refute what they considered wrong. Over time, this led to the development of dogmatics and theology until eminent men (such as Abū l-Ḥasan al Ashʿarī (d. 330) and Abu Manṣūr al-Māturīdī (d. 333)) took pride in their contribution to the field.

In Abu Ḥanīfah's time, *kalām* was not yet a systematized, formal discipline. The narration of traditions and discussion of theological questions were common in Kufah so that any man of ordinary intelligence could work up the necessary knowledge simply by attending learned gatherings, as Abū Ḥanīfah did. Being exceptionally intelligent and articulate he soon acquired a reputation for formidable debating skills, which he practised in Basrah as well as Kufah. After a time,

while still a young man, he renounced debating with schismatics, and devoted his life to *ḥadīth* and *fiqh*. No doubt, however, he retained some interest in questions to do with faith, not least because they had practical consequences for the Muslims. Of the few works attributed to Abū Ḥanīfah on such questions, the best known is *al-Fiqh al-akbar*.

### *al-Fiqh al-akbar*

Some scholars have doubted the attribution of this work to Abū Ḥanīfah, but most Ḥanafī scholars affirm it as his. It has been extensively commented on over the centuries. It now exists in published form. Of the several commentaries, the most famous is by Mullā ʿAlī al-Qārī (d. 1001). Later, Abū Ḥanīfah's opinions on the subject were incorporated in the *ʿAqīdah* of al-Ṭaḥāwī (d. 321) and that of Abū l-Layth al-Samarqandī (d. 373). Samarqandī's work is authentic and represents a popular, Ḥanafī current in theological thought. Al-Ṭaḥāwī's book did not gain popularity only among orthodox Ḥanafīs; rather it came to be regarded as the earliest text to state the creed of the orthodox, that is, Ahl al-Sunnah wa-l-Jamāʿah, the Sunnīs. Al-Ṭaḥāwī's presentation remains popular, and has generated notable commentaries.

Among the issues treated in *al-Fiqh al-akbar*, the most important and widely discussed are 'faith and utterance', 'faith and works', 'the Qurʾān's being created or not', and 'the Companions'.

### *Faith and utterance*

Abū Ḥanīfah said: 'Faith (*īmān*) means assent and affirmation'. 'Islām is surrender and submission to the commands of God, Exalted is He. There is a verbal distinction between *īmān* and *islām*, but there is no *īmān* without *islām*, and *islām* cannot be conceived of without *īmān*. They are like the outer and inner aspect of a thing.'

Evidently Abū Ḥanīfah saw *īmān* as an affirmation by both heart and tongue together. This is clearer in a stylized debate between Abū

Ḥanīfah and Jahm ibn Ṣafwān, from which I quote only the part that concerns us here.

Jahm ibn Ṣafwān: Tell me about someone who has known God in his heart, known that He is One with no partner and no equal, and known His attributes and that nothing is like Him. Then he dies before he utters it with his tongue. Has he died as a believer or unbeliever?

Abū Ḥanīfah: He is an unbeliever from among the people of the Fire unless he utters with his tongue what he has known in his heart.

JS: How can he not be a believer when he has known God with His attributes?

AH: If you believe in the Qurʾān and regard it as a proof then I will argue with it; but if you do not regard it as a proof, then I will use arguments that we use with those who have missed the path of Islam.

JS: I believe in the Qurʾān and regard it as a proof.

AH: God, Exalted is He, has made *īmān* in His Book of two parts: heart and tongue. He says [*al-Māʾidah*, 5. 86–8]: 'And when they hear what has been revealed to the Messenger, you will see their eyes overflowing with tears on account of the truth that they have known. They say: "Our Lord, we believe, so write us down with the witnesses. And what have we that we should not believe in God and in the truth that has come to us, while we long for our Lord to admit us to the company of the righteous people." Therefore God rewarded them, on account of what they said, with gardens with rivers flowing under them, to abide therein. Such is the reward of those who are good-doers.' He entered them into Paradise for their knowing and their utterance, and He made them believers by two elements: the heart and the tongue. In another place He says, Exalted is He, [*al-Baqarah*, 2: 136–7]: 'Say: "We believe in God and in that which has been revealed to us, and in that which was revealed to Ibrāhīm and Ismāʿīl and Isḥāq and Yaʿqub and the tribes, and in that which was given to Mūsā and ʿIsā, and in that which was given to the prophets from their Lord, we do not make any distinction between any of them, and to Him do we submit." If then they believe as you believe, then indeed they are guided.' And God says, Exalted is He [48: 26]: 'And [He] made them keep the word of *taqwā*'; and God says, Exalted is He [*al-Ḥajj*, 22: 24]: 'And they were guided to a good word'; and God says, Exalted is He [*Ibrāhīm*, 14: 27]: 'God confirms those who believe with the sure word in the life of this world and the hereafter.'

The Prophet said: 'Say "There is no god but God", you will succeed.' He did not link success to knowledge, leaving out utterance. And the Prophet said: 'From the Fire will come out whoever says "there is no god but God"'. He did not say: From the Fire will come out whoever knows God.

If there had been no need for utterance and knowledge sufficed, then the one who rejects God with his tongue knowing Him in his heart would be a believer. Then Iblīs would be a believer because he knows his Lord – he knows that He is his Creator, making him to die, then bringing him to life, and causing him to go astray: he (Iblis) said: 'As You have caused me to go astray' [*al-A'raf*, 7: 16]; and he said: 'Respite me until the day when they are raised up' [7: 14]; and he said: 'You created me of fire, and him You created him of dust' [*Ṣād*, 38: 76]. Then the unbelievers would be believers because of their knowledge of their Lord even if they denied it with their tongue. God says, Exalted is He [*al-Naml*, 27: 14]: 'And they denied them, while their souls had been convinced of them.' Here, regardless of their conviction that God is One, He did not consider them to be believers because of their denial with their tongues. He says, Exalted is He [*al-Naḥl*, 16: 83]: 'They know the favour of God, yet they deny it, and most of them are unbelievers.' And He says, Exalted is He [*al-Baqarah*, 2: 146]: 'They know him as they know their sons'. The knowledge has not been useful to them.

JS: You have put something in my heart: I will come back to you.
(Kardarī, *Manāqib*, 185)

## *Faith and deeds*

Among the sects, the Khawārij considered that deeds are a constituent part of faith (*īmān*), so that one who does not act as faith requires does not have faith and is an unbeliever, while the Mu'tazilah consider such a person in a station between belief and unbelief. Having to refute this opinion, Abū Ḥanīfah found it necessary to clarify the relation between faith and deeds. He argued that deeds are not a constituent part of faith. He did not go from there to the extreme of claiming that there was no effective connection between faith and deeds. That extreme was the position of another heretical sect, the Murji'ah. They said that if a person believed sincerely in the Oneness of God and the prophethood of His Messenger, but was remiss in

doing his duties as a believer, he would be nonetheless exempt from punishment hereafter. This is not Abū Ḥanīfah's position, although he was, quite wrongly, accused of it. He believed firmly in the relevance of deeds – deeds are not a constituent part of faith, but it is deeds that distinguish one believer from another: 'Although believers are equal insofar as they believe, they differ with respect to knowledge, certainty, reliance, love satisfaction, fear, hope.' More explicitly he says:

We do not say, like the Murjiʾah, that our good deeds are accepted by God, and our evil deeds forgiven by Him. Rather, we say that the matter is to be clarified and expounded as follows: whoever performs a good deed in accordance with all the requisite conditions, free of all corrupting deficiencies and nullifying concerns, and does not then cancel his deed with unbelief or apostasy at any time before his death, God Almighty will not cause his deed to be wasted; rather, He will accept it and bestow reward for it. As for evil deeds – other than the assigning of partners to God and unbelief, for which the believer does not offer repentance before his death – the will of God may elect either to chastise their author or to forgive him, without chastising him in hellfire. Hypocrisy and arrogance in any deed annul its reward. (Abū Ḥanīfah, *al-Fiqh al-akbar*, 54–5)

### *The Qurʾān's being created or not*

This controversy had appeared in the time of Abū Ḥanīfah. The first person to utter the opinion that the Qurʾān was created was Jiʿd ibn Dirham. He was executed by Khālid ibn ʿAbdillāh, the governor of Khurasan. Jahm ibn Ṣafwān also adopted this opinion. It led, eventually, to the only thing in Islamic history resembling an inquisition, until Aḥmad ibn Ḥanbal took the strong position he did and eradicated it.

Abū Ḥanīfah's approach to the matter is reported by Qāḍī Abū Yūsuf:

While Abū Ḥanīfah was on ḥajj in Makkah, someone came to the masjid of Kūfah on Friday asking people about the Qurʾān. The people disputed about

this [matter], then [that person] came to our class and asked us about it. We did not reply to him, saying: 'Our master is not present, and we dislike to precede him in anything.' Then, when Abū Ḥanīfah arrived we said to him that an issue had arisen and we wanted to know his opinion. It seemed to us that Abu Ḥanīfah read our heart, and we saw his face changing. He thought that a specific issue had arisen and we had uttered something about it. Then he said: 'What is this [issue]?' We told him about it. He stopped for a while, then he said: 'What did you reply?' We said: 'We did not utter anything. We feared that if we uttered something, maybe you would disapprove it.' Then he was relieved and said: 'May God reward you well! Memorize from me my will: do not speak about it, and never ask about it. Believe that the Qur'an is the Word of God, Exalted is He, without addition of any letter. I do not think that this issue will end until it causes the people of Islam to fall into an affair wherein they will not be able to stand and they will not be able to sit. (Ibn ʿAbd al-Barr, *Intiqa'*, 317–18)

We read in Baghdādī's *Ta'rīkh*: 'As for the assertion that the Qur'ān was created, Abū Ḥanīfah did not espouse it.' It also states, 'Neither Abū Ḥanīfah, Abū Yūsuf, Zufar, nor Muḥammad [Shaybānī], spoke about the [issue of the] Qur'ān [being created or not]. Those who spoke about it were Bishr al-Mirrīsī and Ibn Abī Dāwūd. They vilified the followers of Abū Ḥanīfah'. (Baghdādi cited in Abū Zahrah, *Abu Ḥanīfah*, 223)

## *His attitude to the Companions*

Abū Ḥanīfah's respect for all the Companions without exception is well-known. He expressed love for the imāms of *ahl al-Bayt*, but he did not follow the Shīʿah in expressing disrespect of the Companions. It was imperative for the unity and solidarity of the Muslims that they should respect the Companions, and not speak ill of any of them. He wrote in *al-Fiqh al-akbar* (pp. 50–52):

The most virtuous of all men after the Messenger of God, may God pray over him and grant him peace, are Abū Bakr al-Ṣiddīq, may God be pleased with him; then ʿUmar ibn al-Khaṭṭāb; then ʿUthmān ibn ʿAffān; then ʿAlī ibn Abī Ṭālib, may they all enjoy the pleasure of God, Exalted is He. They were all steadfast in the truth and with the truth, and we proclaim our allegiance to all of them. We

make only good mention of all of the Companions of the Messenger of God, may God pray over him and grant him peace.

## *ḤADĪTH*

The collection and transmission of *ḥadīth*s preoccupied Abū Ḥanīfah's time, but was not his primary focus, which remained the derivation of *fiqh*. He memorized and recorded *ḥadīth*s and reflected on them critically, and others therefore cited him as an authority. Qāḍī Abū Yūsuf said: 'I used to bring *ḥadīth*s to Abū Ḥanīfah. He accepted some of them; and he rejected others, saying: This is not sound or this is not known.' Also: 'I never opposed Abū Ḥanīfah in anything, but that when I had thought about it, I found his opinion, what he chose, more conducive to salvation in the hereafter. Sometimes I inclined to the *ḥadīth*, while he was more aware of the sound *ḥadīth* than me' (Baghdādī, *Taʾrīkh*, xiii. 340). Al-Dhahabī, whose *Tadhkirat al-ḥuffāẓ* (a collection of biographies of *ḥadīth* experts) includes a section on Abū Ḥanīfah, said: 'Though Abū Ḥanīfah was a *ḥāfiẓ* (expert) in *ḥadīth*, narration from him is little because he concentrated on derivation' (*Manāqib*, 28). Ibn Maʿīn says: 'Abū Ḥanīfah was reliable; he did not narrate except those *ḥadīth*s that he knew by heart, and did not narrate what he did not know by heart.' (Dhahabī, *Siyar*, vi. 395)

People relied on Abū Ḥanīfah because of his understanding, as well as his reliability, in *ḥadīth*. Zufar says that great experts of *ḥadīth* like Zakariyyā ibn Abī Zāʾidah, ʿAbd al-Malik ibn Abī Sulaymān, Layth ibn Abī Sulaym, Muṭarrif ibn Ṭarīf, Ḥusayn ibn ʿAbd al-Raḥmān and others used to call upon Abū Ḥanīfah and ask him about the issues they faced and the *ḥadīth*s that they could not understand.

Abū Ḥanīfah was also highly regarded for his knowledge about narrators of *ḥadīth*, and about the most trustworthy chains of narration. Yaḥyā ibn Saʿīd al-Qaṭṭān (see below), foremost authority on *rijāl* in his generation, was a student of Abū Ḥanīfah. But Abū Ḥanīfah's own opinion on narrators was also recorded by later

authorities. Al-Tirmidhī (d. 279) reported that he said: 'I have not seen anyone more falsifying than Jābir al-Juʿfī, and no one better than ʿAṭāʾ ibn Abī Rabāḥ' (Tirmidhī, *Sunan*, *al-ʿIlal*). Al-Bayhaqī (d. 458) reported that, on being asked about taking *ḥadīth*s from Sufyān al-Thawrī, Abū Ḥanīfah said: 'Write down from him. He is a reliable one, except his narrating of the *ḥadīth*s of Isḥāq ibn al-Ḥārith and the *ḥadīth*s of Jābir al-Juʿfī.' (Qurashī, *Jawāhir*, i. 60)

ʿAlī ibn al-Madīnī, the principal teacher of al-Bukhārī, listed the great *muḥaddithūn* who narrated from Abū Ḥanīfah and concluded: 'Abū Ḥanīfah is reliable' (ibid., 56). The same praise of his integrity, reliability and his God-fearing in the reporting of *ḥadīth*s was expressed by Yaḥyā ibn Maʿīn, by Aḥmad ibn Ḥanbal, by their teacher Yazīd ibn Hārūn, and others.

## Kitāb al-āthār *and the* Musnad

*Kitāb al-Āthār*, attributed to Abū Ḥanīfah, is narrated from Abū Yūsuf, Zufar, Ḥafṣ ibn Ghiyāth, Muḥammad ibn al-Ḥasan al Shaybānī, and others. It contains selections from hundreds of reports of the Prophet and his Companions, arranged according to the chapters of *fiqh*. It was the first of its kind to be so organized, and set a pattern followed by others – by Ibn Jurayj in Makkah, Mālik ibn Anas in Madinah, Saʿīd ibn Abī ʿArūbah and ʿUthmān al-Battī in Basrah and al-Awzāʿī in Syria.

The different versions of the *Musnad* attributed to Abū Ḥanīfah were collected in a single volume by Abū l-Muʾayyad Muḥammad ibn Maḥmūd al-Khwārizmī (d. 665). This work is a compilation of the compilations of *ḥadīth*s narrated by later scholars from Abū Ḥanīfah, the earliest of these being the *Musnad* of Muḥammad al-Shaybānī. It comprises 1710 narrations, of which 916 are *marfūʿ* *ḥadīth*s, that is, linked back to the Prophet. Of these *ḥadīth*s, 94 are narrated from Ibn ʿUmar, 72 from Ibn Masʿūd, 68 from ʿĀʾishah, 60 from Ibn ʿAbbās, 56 from Jābir, 44 from Abū Hurayrah, 33 from Buraydah ibn Khuṣayb,

30 from Abū Saʿīd al-Khudrī, 29 from Anas ibn Mālik, 21 from ʿAlī, and 15 from ʿUmar. The rest are *āthār*, sayings from the Companions: 73 from Ibn Masʿūd, 68 from ʿUmar, 47 from Ibn ʿUmar, 37 from ʿAlī, 32 from Ibn ʿAbbās, 13 from ʿĀʾishah. It comprises also sayings of the Successors: 355 from Ibrāhīm al-Nakhaʿī, 13 from al-Shaʿbī, 13 from Shurayh, 11 from Saʿīd ibn Jubayr, 5 from ʿAṭāʾ ibn Abī Rabāḥ, 3 from Muḥammad al-Bāqir, 3 from Sālim, and some others.

## HIS STUDENTS

If the worth of a teacher is fairly measured by the worth of his students, few teachers in history can have been so blessed in their students as Abū Ḥanīfah. It is impractical to give the names of all those who attained eminence as scholars, judges or administrators. However, it is proper to mention a few of those who were subsequently recognized as leaders in the fields of *ḥadīth* and *fiqh*, and the sub-disciplines associated with them.

### Ḥadīth *specialists*

*ʿAbdullāh ibn al-Mubārak ibn Wāḍiḥ* (118–181 AH). A native of Merv, he was one of Abū Ḥanīfah's best known students and especially close to him. He heard *ḥadīth*s from Sulaymān al-Taymī, ʿĀṣim al-Aḥwal, Ḥumayd al-Ṭawīl, Hishām ibn ʿUrwah and others. He used to say: 'If God had not helped me through Abū Ḥanīfah and Sufyān [al-Thawrī], I would have been like the rest of the people' (Baghdādī, *Taʾrīkh*, xiii. 337). He was given the title of 'commander of the faithful' in *ḥadīth*. Aḥmad ibn Ḥanbal said that none of ʿAbdullāh ibn al-Mubārak's contemporaries had been more assiduous than he in learning *ḥadīth*s. He wrote numerous works on *ḥadīth* and *fiqh*, of which *K. al-Zuhd* is published. On one occasion, when the caliph Hārūn al-Rashīd was visiting Raqqah, ʿAbdullāh ibn al-Mubārak also arrived there. On hearing of his arrival such large numbers of people rushed to the town

that clouds of dust were raised by the commotion. A lady of Hārūn al-Rashīd's harem, observing this scene, asked what was going on. She was informed that the 'scholar of Khurasan' known as ʿAbdullāh ibn al-Mubārak had come to the town. She commented: 'This is real kingship. Hārūn al-Rashīd's kingship is not kingship – no one comes to him unless brought by soldiers and policemen.'

*Wakīʿ ibn al-Jarraḥ ibn Malīḥ, Abū Sufyān* (129–197). He heard *ḥadīth*s from the major teachers of his time and was considered as one of the pillars of *ḥadīth*. Aḥmad ibn Ḥanbal was so proud to have been a student of his that, whenever he quoted a tradition on his authority, he would begin by saying: 'This tradition was transmitted to me by one whose equal you have not seen'. He heard traditions from Abū Ḥanīfah and followed him on most questions and gave fatwās according to his dicta. (Baghdādī, *Taʾrīkh*, xiii. 470; Dhahabī, *Siyar*, ix. 148)

*Yaḥya ibn Saʿīd ibn Farrūkh al-Qaṭṭān* (120–198). He heard *ḥadīth*s from Hishām ibn ʿUrwah, Ḥumayd al-Ṭawīl, Sulaymān al-Taymī, Yaḥyā ibn Saʿīd al-Anṣārī, al-Aʿmash and others. In his generation he was the great authority on *rijāl*, and he is said to have been the first to define this subject formally and write on it. He was followed by his students, Yaḥyā ibn Maʿīn, ʿAlī ibn al-Madīnī, Aḥmad ibn Ḥanbal, ʿAmr ibn ʿAlī al-Fallās and Abū Khaythamah, in turn followed by their students, al-Bukhārī and Muslim among them. Yaḥyā attended Abū Ḥanīfah's lectures and followed him in most matters and gave *fatwā*s on the basis of Abū Ḥanīfah's sayings (Baghdādī, *Taʾrīkh*, xiii. 346). He died in Basrah.

*Yazīd ibn Hārūn, Abū Khālid al-Wāsiṭī, Shaykh al-Islām* (118–206). He heard *ḥadīth*s from ʿĀṣim al-Aḥwal, Yaḥyā ibn Saʿīd, Sulaymān al-Taymī and others. Aḥmad ibn Ḥanbal, ʿAlī ibn al-Madīnī, Yaḥyā ibn Maʿīn, Ibn Abī Shaybah and other major scholars have narrated from him. ʿAlī ibn al-Madīnī used to say that he knew of no one who knew more traditions by heart. In *ḥadīth* he too was a student of Abū Ḥanīfah's and narrated from him. He is reported to have said: 'I have

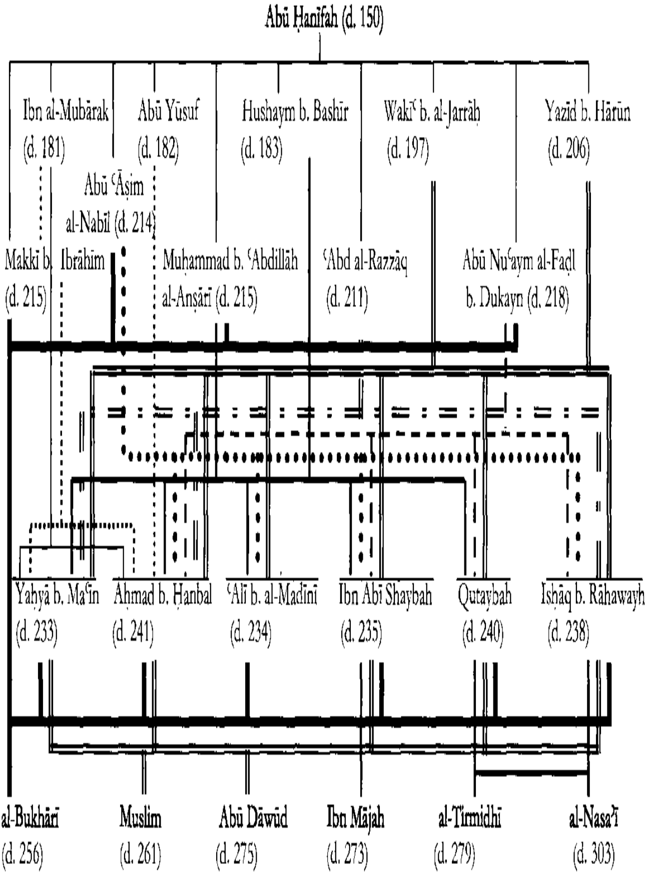



*Chart 3.* Transmission of *ḥadīth*s, through Abū Ḥanīfah's students, to the compilers of the Six Books of *ḥadīth*

associated with many people, but have not met one who was Abū Ḥanīfah's better.' (Qurashī, *Jawāhir*, i. 57)

*Ḥafṣ ibn Ghiyāth al-Nakhaʿī al-Kūfī* (d. 196). He was the *qāḍī* of Kufah for thirteen years, and of Baghdad for two. A great *muḥaddith*, he narrated from ʿĀṣim al-Aḥwal, Hishām ibn ʿUrwah and others. Aḥmad ibn Ḥanbal, ʿAlī ibn al Madīnī and others have quoted traditions on his authority. He was specially renowned for narrating traditions (as many as three to four thousand) from memory, without the aid of a book or record of any kind. He was specially dear to Abū Ḥanīfah who said to him: 'You are the comfort of my heart and the allayer of my sorrows' (ibid., ii. 138).

*Abū ʿĀṣim al-Ḍaḥḥāk ibn Makhlad al-Shaybānī*, called *al-Nabīl*. He died in Basrah in 212 at the age of 90. He heard ḥadīths from Sulaymān al-Taymī, Ibn Jurayj, Jaʿfar ibn Muḥammad and others. Al-Bukhārī quotes him as saying: 'Since I learned that backbiting is a sin I have not spoken against anyone behind his back' (Bukhārī, *al-Taʾrīkh al-kabīr*, iv. 336). At one time Shuʿbah vowed to narrate no more traditions. As he was a very great *muḥaddith*, whose lectures benefited thousands of students, this caused much public concern. Abū ʿĀṣim, on hearing of his vow, went to Shuʿbah and said: 'I will free a slave of mine to compensate for your breaking your vow. Please break it and resume your teaching of *ḥadīth*.' Moved by Abū ʿĀṣim's dedication to learning the Sunnah, Shuʿbah said: '*Anta nabīl* (You are noble).' That became his title thenceforth (Dhahabī, *Siyar*, ix. 483). Once asked whether Sufyān al-Thawrī or Abū Ḥanīfah was more of a *faqīh*, Abū ʿĀṣim said: 'Comparison is possible only between things that resemble each other. Abū Ḥanīfah is the founder of *fiqh*, while Sufyān is only a *faqīh*.' (Baghdādī, *Taʾrīkh*, xiii. 342)

*ʿAbd al-Razzāq ibn Hammām ibn Nāfiʿ al-Ṣanʿānī* (126–211). Many great imāms of *ḥadīth*, such as Sufyān ibn ʿUyaynah, Yaḥyā ibn Maʿīn, Isḥāq ibn Rāhawayh, ʿAlī ibn al-Madīnī and Aḥmad ibn Ḥanbal, were among his students. A voluminous book by him on *ḥadīth* titled *al-*

*Muṣannaf* is regarded by *muḥaddithūn* as a treasure-house of learning. As a student of Abū Ḥanīfah, he was particularly closely associated with his master and for a long time. Many reports are therefore quoted from him about his teacher's habits and manners. In one tribute, he said that he had never known a man gentler in nature than Abū Ḥanīfah.

### *Jurists*

It would be impossible here to give an account of even the forty of Abū Ḥanīfah's students he put on his committee for the compilation of the laws. Of those forty, three were generally recognized to have been the most outstanding, and regarded as Abu Ḥanīfah's successors in the Kufan school of *fiqh*. They were: Zufar, Abū Yūsuf, and Muḥammad ibn al Ḥasan al-Shaybānī.

*Zufar ibn al-Hudhayl ibn Qays, Abū l-Hudhayl* (110–158). Zufar's first interest was *ḥadīth*, but once he turned to *fiqh* he remained committed to it for the rest of his life. He was particularly skilled in analogical reasoning, and Abū Ḥanīfah called him the greatest of his companions in this respect. Wakīʿ ibn al Jarrāḥ used to consult him. He held the post of *qaḍi*.

*Yaʿqūb ibn Ibrāhīm ibn Ḥabīb al-Anṣārī*, most widely known as *Qāḍī Abū Yūsuf*. He was born in Kufah in 113 or 117. He heard *ḥadīth*s from al-Aʿmash, Hishām ibn ʿUrwah, Sulaymān al-Taymī, Yaḥyā ibn Saʿīd al-Anṣārī and others, and was known as a master of the field. He stayed in Abū Ḥanīfah's class until he became the most prominent of all his students. After Abu Ḥanīfah's death, the ʿAbbasid Caliph Mahdī appointed him as *qāḍī* in 166 AH. Mahdī's successor, Hādī, retained him in the post. Subsequently, Hārun al Rashīd, on learning of his attainments, appointed him *qāḍī al-quḍāt* for the whole realm, a post which he was the first to hold in Islamic history. He died in 182. He was a versatile scholar: although famous mostly in *fiqh*, he was considered a master also of Qurʾānic exegesis and the history of the

Arabs, their military history in particular. He was certainly one of the great masters of *hadith* in his generation. Yaḥyā ibn Maʿīn said: 'There is no one among the *ahl al-ra'y* who cited more traditions than Abū Yūsuf did' (Dhahabī, *Siyar*, viii. 535). Aḥmad ibn Ḥanbal said: 'When I was first attracted to *ḥadīth*, I went to Abū Yūsuf' (ibid., 536). His standing in *fiqh* was acknowledged by Abū Ḥanīfah himself. Returning once from a visit to Abū Yusuf during the latter's illness, he said to his companions: 'If, God forbid, this man dies, the world would lose one of its great scholars' (ibid.). A long list of his books is given in Ibn al-Nadīm's *Fihrist*. His best known work is *K. al-Kharāj*, a collection of memoranda sent by Abū Yūsuf to Hārūn al-Rashīd on *kharāj*, *jizyah*, and other revenue concerns of the state. It describes cultivation processes, different kinds of produce, and related questions of administration, comprehensively and systematically arranged. It is an altogether remarkable document for its time, not least for its clarity and directness of style. Incidentally, while expounding instructions and rules, Abū Yūsuf draws to the Caliph's attention in forthright terms irregularities in the administration.

*Muḥammad ibn al-Ḥasan al-Shaybānī* (135–89). He heard *ḥadīths* from Misʿar ibn Kidām, al-Awzaʿī, Sufyān al-Thawrī, Mālik ibn Anas and others. He is one of the twin pillars of Ḥanafī *fiqh*, the other being Abū Yusuf. For about two years he attended Abū Ḥanīfah's lectures, and after the latter's death completed his education under Abū Yūsuf. He was accompanying Hārūn al-Rashīd on a visit to Rayy in 189, when he died. By coincidence, the famous grammarian al-Kisā'ī, also in the royal party, died at the same place. Hārūn al-Rashīd was grieved by this double loss and said: 'Today we have buried both *fiqh* and *naḥw* (grammar)' (Qurashī, *Intiqā'*, iii. 126). Muḥammad's standing in *fiqh* may be gauged from what al-Shāfiʿī said: 'Whenever Imām Muḥammad expounded a point of law, it seemed as if the revealing angel had descended upon him' (Dhahabī, *Siyar*, ix. 135). Al-Shāfiʿī possessed a great number of Muḥammad's books and studied

them. So too did Aḥmad ibn Ḥanbal. Muḥammad also had a high reputation in *ḥadīth* and *tafsīr*. Al-Shāfiʿī said: 'I have not come across a man more learned in the Qurʾān than Imām Muḥammad.' His narration of Mālik's *Muwaṭṭā* is well-known, as also his refutation, in his *K. al-Ḥujjah ʿalā ahl al-Madīnah*, of the Madinan position on a number of issues. He left a vast corpus of writings (Ibn al-Nadīm lists 66 titles under his name), which became standard works in the curricula of the Ḥanafī school (see next chapter).

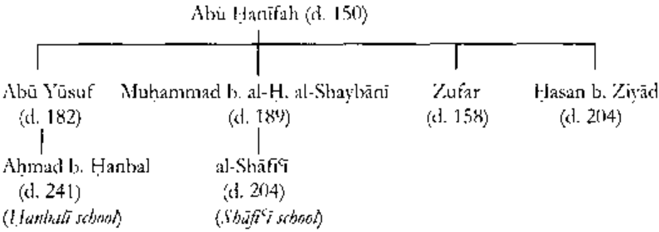



*Chart 4.* Transmission of *fiqh*, through the students of Abū Ḥanīfah, to the founders of the Shāfiʿī and Ḥanbalī schools

Just as Abū Ḥanīfah's achievement is a tribute to the greatness of his teachers; so too the achievements of his students are a tribute to the greatness of Abū Ḥanīfah. The roll of honour has been succinctly expressed by al-Dhahabī in *Siyar aʿlām al-nubalāʾ* in his biographical note on Ḥammād ibn Abī Sulaymān:

> The greatest jurists of the people of Kufah were: ʿAlī and Ibn Masʿūd; [after them] the greatest jurist among their students was ʿAlqamah; the greatest jurist among the students of ʿAlqamah was Ibrāhīm; the greatest jurist among the students of Ibrāhīm was Ḥammād; the greatest jurist among the students of Ḥammād was Abū Ḥanīfah; the greatest jurist among the students of Abū Ḥanīfah was Abū Yūsuf, whose students spread in all the horizons; the greatest jurist among them was Muḥammad [al-Shaybani]; the greatest jurist among the students of Muḥammad was al-Shāfiʿī, may God bestow His mercy on them. (Dhahabī, *Siyar*, v. 236)

5

# His achievement and legacy

'In *fiqh* people are reliant on Abū Ḥanīfah.' That is al-Shāfiʿī's famous tribute to the man and his work. Abū Ḥanīfah's authority in *fiqh*, recognized in his own lifetime, has persisted throughout the subsequent centuries. The man's knowledge (a combination of his grasp of tradition and his exceptional ability to expound legal concepts and principles), together with his reputation for integrity and piety, were the major factors in his popularity as a teacher. The spread of the *fiqh* identified with Kufah and then with Abū Ḥanīfah himself is attributable in part to him, and in part to the historical coincidence that it was favoured by the ʿAbbāsid state. In this concluding chapter I present an overview of the main features of Ḥanafī *fiqh*, and try to explain how it fared, and how it spread, after the time of his best students.

## ABŪ ḤANĪFAH'S *FIQH*: AN OVERVIEW

Abū Ḥanīfah considered the law as composed of two spheres – those matters which must be defined exclusively in the terms expressed in Qurʾān and Sunnah, and those matters which may be determined by reason guided by reference to the broader principles and purposes of

the Qur'ān and Sunnah. Foremost among the former are the religious rites (prayers, fasting, alms-tax, pilgrimage), and a number of religious commands (on dietary regulations, for example, and certain elements of the criminal code), which are incontestably and explicitly specified in the Qur'ānic text and/or in the texts of the reliably reported *ḥadīth*s and *āthār*. Abū Ḥanīfah did not recognize any role for reason to initiate legislation in this sphere. Reason could, at most, explain the wisdom underlying these commands – though it certainly could not always do so. Where it could, it might then, through strictly disciplined analogy, offer minor adaptation or extension of those commands in unusual situations. In this sphere, Abū Ḥanīfah rejected reason and preferred to follow even a weak *ḥadīth*, that is, a text that, to the best of his knowledge, was not incontestably a judgement of the Prophet, though it probably was.

Outside the sphere of explicit religious commands, he affirmed that the Muslim's duty to Qur'ān and Sunnah lay in establishing rules that made the everyday life of the people (individual and collective) easier and more beneficial, or which removed hardship and harm from them. The broad principles of what is beneficial and harmful come with the general guidance of Qur'ān and Sunnah. Human reason can easily infer these principles and the wisdom behind them, and the people accept them because the values they embody are universal. For situations for which there was no precedent in the sources, Abū Ḥanīfah permitted free thinking anchored in understanding of Qur'ān and Sunnah. Indeed, he specified that, in such cases he preferred strong reasoning to weak *ḥadīth*s. Even in the *muʿāmalāt*, however, he made a distinction between injunctions that, it was clear from the sources, were consistently and constantly applied by the Prophet and then by his Companions after him, and those which the sources indicated had been susceptible to change in different circumstances. So, whether applying the good maxim of utility and practicability to realize universal values through law, or simply clarifying how to apply

the explicit religious commands, he followed the Sunnah – he followed it in both its constancy and its flexibility.

In evolving the legal method associated with his name, Abū Ḥanīfah was not asserting his personal preferences, intellectual or moral, still less seeking to impose his arguments on others simply because they were his own. It is in this sense that we speak of 'public reason' as an explicit element of his legal method: he would argue his case openly on the basis of the sources available to him. He expected others to do the same. He discussed every new case that came before him with his students, and urged them to present their arguments openly. Sometimes he agreed with them, and sometimes he did not. The records of his opinions contain also the records of those opinions of his students who differed from him. He did not like people to follow him unless they knew his sources and arguments. He forbade the issuing of fatwās on his authority unless the person doing so knew his proofs (Ibn ʿAbd al-Barr, *Intiqāʾ*, 267). For generations after him, scholars in the Ḥanafi tradition regarded it as unlawful for one scholar to follow another without knowing his argument. A comparison between the *fiqh* of Abū Ḥanīfah and that of his students clearly demonstrates that they were never his blind followers; rather they exercised conscience and reason independently, as he did, and strove to derive rulings from the sources directly. It is perhaps Abū Ḥanīfah's greatest achievement that his students were not his personal followers: he trained them to serve the society as competent *mujtahids*. For several centuries after him, *taqlīd* – which should not be translated as 'blind imitation', which it rarely was, but as consolidation and refinement of established doctrines – did not mean, in the Ḥanafī school, any neglect of the responsibility of *ijtihād* on behalf of the Qurʾān and Sunnah.

The success of Abū Ḥanīfah's teaching owed much to his encouragement of thinking through scholarly discussion. He attracted the best students of his generation, known for their mastery of Arabic

language, Qurʾānic commentary and *ḥadīth* studies. As a result, the Kufan school was able to handle responsibly and convincingly the diverse legal issues that faced Islamic society at the time, and assemble a systematic compilation of rulings in all the divisions of *fiqh*. This compilation was completed and widely circulated within the lifetime of Abū Ḥanīfah: there are just too many references to it in books of biography and history to allow for any doubt on the matter. However, the contents of this compilation, as I have noted, are now mostly known through his students' writings on *ḥadīth* and *fiqh*, especially those of Abū Yūsuf and Muḥammad al-Shaybānī. Alumni of the Kufan school were appointed in large numbers to judicial and administrative posts, or as important teachers of the law, throughout the Islamic world. Abū Ḥanīfah was more fortunate than his peers among the pioneers of Islamic law, such as al-Awzāʿī, Sufyān al-Thawrī, Layth ibn Saʿd, Ibn Jurayj and others, whose *fiqh* did not continue for long because they did not have students of juristic temperament. Al-Shāfiʿī once said: 'Layth is more expert in *fiqh* than Mālik, but his students did not keep his tradition' (Dhahabī, *Siyar*, viii. 156). In fact no teacher in the field of jurisprudence produced so many proficient students as Abū Ḥanīfah did.

## REGIONAL SPREAD OF THE ḤANAFĪ SCHOOL

The rise of the Kufan school coincided with the historical events that marked the end of the rule of the Umayyad dynasty. The ʿAbbāsids who then came to power needed a body of law to run their vast realm. Abū Ḥanīfah himself was never on good terms with the rulers of his time. They knew his excellence in *fiqh* and his influence with the people, and so offered him positions of authority several times. He always refused, no doubt because he suspected that the regime's principal motivation for turning to him was not to serve the people but to bolster their own legitimacy. However, in the years after Abū

Ḥanīfah's death, the ʿAbbāsids became and felt secure: then, both Abū Yūsuf and Muḥammad al-Shaybānī reasoned that co-operating with the State was in the greater interests of the society. Abu Yūsuf accepted from the caliph, Hārūn al-Rashīd, the new post of Chief Judge (*qāḍī al-quḍāt*), which covered administration of justice and appointment of *qāḍī*s, as well as financial policy and related questions. The caliph appointed Muḥammad al-Shaybānī as judge of Raqqah. In the light of various episodes recounted by the biographers, his relations with Hārūn al-Rashīd were not consistently amicable, but he remained an influential member of his entourage until relieved of his duties *ca.* 187. During the rule of Hārūn, Ḥanafī *fiqh* (now centred in Baghdad rather than Kufah) became the *de facto* official *madhhab* of the ʿAbbāsid caliphate. It did give to the State the legitimacy it craved but, on the other hand, the school's official status helped it to grow and develop further through practical experience of dealing with new situations.

When the power of the ʿAbbāsid regime waned, the authority of Ḥanafī *fiqh* did not. The local statelets that emerged continued to look to Ḥanafī scholars to discharge their responsibilities for legal administration of the regions they controlled. Following the depredations of the Mongols, most of the dynasties that came to power in the Islamic world adhered to the Ḥanafī *fiqh*. A unified government was not restored to the heartlands of Islam until the rise of the Ottoman Turks. At the height of their power, they ruled in three continents, and they too, like the Saljūq Turks before them, upheld the Ḥanafī juristic tradition. As a legacy of the long rule of the Ottomans, Ḥanafī doctrine has retained official status, to the extent that Islamic law has remained valid, even in those former Ottoman provinces where the majority of the population follows another school, namely Egypt, Sudan, and Greater Syria (i.e. modern Jordan, Palestine, Lebanon and Syria).

During Abū Ḥanīfah's lifetime and afterwards, students from many different regions of the Islamic world attended the Kufan school and then carried its *fiqh* back to their homelands. Abū

Ḥanīfah's methods and teaching spread to Basrah through the efforts of Yūsuf ibn Khālid al-Samtī (d. 189) and, later, of Zufar ibn al-Hudhayl (d. 158). Muslims from the west of the Islamic world (North Africa and the Maghreb) also attended the Kufan school. Though these Africans did not follow the Ḥanafi *madhhab*, they were nevertheless effective in transmitting Abū Ḥanīfah's teachings to their homelands. Asad ibn Furāt (d. 213), ʿAbdullāh ibn Farrūkh al-Fārisī and the *qāḍī* ʿAbdullāh ibn Ghānim were particularly influential in this regard. The Ḥanafīs were a significant minority among the Mālikīs during the first few centuries of Islam, particularly in Ifrīqiyya under the Aghlabids; according to al-Maqdisi (d. *ca.* 391) they even predominated in Sicily. In Egypt, Ismāʿīl ibn al-Yasaʿ al-Kūfī, who succeeded Ibn Lahīʿah as *qāḍī* of Egypt in 164, followed the doctrine of Abū Ḥanīfah. It also spread in Syria, despite opposition, in the second half of the second century AH. (See *Dāʾirat al-maʿārif*, v. 400–01.)

According to a report narrated by Ḥamdūyah from ʿUyaynah (Baghdādī, *Taʾrīkh*, xiii. 347), the teachings of Abū Ḥanīfah took root everywhere in the Islamic world except Madinah. After Iraq itself, Khurasan became the strongest centre of Ḥanafī *fiqh*. Abū Ḥanīfah's long established personal contacts in Khurasan were a major factor in attracting students from there. His *fiqh* spread from Khurasan to Transoxania and Afghanistan, and then the Indian subcontinent, Turkish Central Asia and the western provinces of China.

Abū Ḥanīfah's arguments in *fiqh* influenced scholars in other disciplines, notably theology and *ḥadīth*. The most prominent among the *ḥadīth* specialists who recognized his authority were ʿAbdullāh ibn al-Mubārak, Wakīʿ ibn al-Jarrāḥ, Yaḥyā ibn Saʿīd Qaṭṭān, Yaḥyā ibn Ādam and Abū Qāsim ibn Sallām. Later Yaḥyā ibn Maʿīn followed Abū Ḥanīfah in the fatwās he issued. Tirmidhī, author of one of the 'Six Books' (the most widely accepted of the *ḥadīth* compilations), mentions Abū Ḥanīfah's opinions alongside those of *ḥadīth* specialists. Not surprisingly, his influence was greatest over the jurists of his own

and later times, regardless of whether or not they were affiliated to the Kufan school. Scholars of the stature of Muḥammad ibn Naṣr al-Marwazī (d. 294) and Muḥammad ibn Jarīr al-Ṭabarī (d. 310) record the legal arguments of Abū Ḥanīfah in their books on *ikhtilāf al-fuqahā'* (the differences among the jurists) beside those of jurists characterized as *ahl al ḥadīth.*

Ḥanafī *fiqh* also influenced minority (i.e. non Sunnī) sects: of the Shī'ah, especially Zaydīs; eastern Ibbāḍīs; and the Mu'tazilīs. Here we have space to consider only the Mu'tazilīs. Their attitude changed markedly over time. In the early period, they strongly opposed Abū Ḥanīfah because he so firmly refuted their dogmas. By the middle of the third century AH, while their hostility to his creed remained, they had softened towards his *fiqh.* Aḥmad ibn Abī Dāwūd (d. 240), the famous Mu'tazilī of Baghdad, despite his belief in the Qur'ān's being created, followed Abū Ḥanīfah in *fiqh.* Indeed, his doing so was cited by later polemicists to defame Ḥanafīs. Ibn al-Nadīm (*Fihrist*, 296) states that Abū l-Walīd, the son of Aḥmad ibn Abī Dāwud, a judge and author of a few books, also followed Abū Ḥanīfah in *fiqh.* In Khurasan, Abū l-Qāsim al-Balkhī (d. 319), a prominent figure of the Mu'tazilī school, adopted the Ḥanafī doctrine in his *fiqh*; so too did most Mu'tazilīs in Iran. In the fourth to the seventh centuries AH, a sub-group of Mu'tazilīs, known as Najjārīn and located around Rayy, followed the Ḥanafī *fiqh.* Their following Abū Ḥanīfah in *fiqh* led some Mu'tazilīs to modify their position on his theology. Abū l-Qāsim al-Balkhī (*al-Maqālāt*, 105) limits the difference of Abū Ḥanīfah with '*ahl al-'adl*' (i.e. the Mu'tazilīs) to only the one issue of '*iṣmah.* Some Mu'tazilīs went so far as to reject the attribution of *al-Fiqh al-akbar* to Abū Ḥanīfah, claiming that it was the work of Abū Ḥanīfah Yūsuf ibn Muḥammad al-Bukhārī. (See *Da'irat al Ma'ārif*, v. 401.)

## DEVELOPMENT OF THE *FIQH* WORKS OF THE SCHOOL

Baghdad, as noted, replaced Kufah as the home of the Ḥanafī *madhhab*. Its major early authorities were based in the ʿAbbāsid capital, working in judicial or administrative posts, writing new theses or compiling ever more systematic or concise texts, or teaching. Khurasan and Transoxania then emerged, in the third/fourth centuries AH, as a parallel centre of Ḥanafī *fiqh*, and produced numerous famous scholars. Later, Turkey, Syria and Egypt during the Ottoman rule, and India during the Mughal rule, succeeded in preserving the Ḥanafī legacy but with very little in the way of original contributions. I give below a brief survey of the principal works of Ḥanafī *fiqh* after the generation of Abū Ḥanīfah's direct students:

*Abū Bakr Aḥmad ibn ʿUmar al-Shaybānī al-Khaṣṣāf* (d. 261). He was the legal expert to the court of the caliph al-Muhtadī bi-Allāh. He wrote *Kitāb Aḥkām al-awqāf*, a treatise on the laws related to endowments, which was highly regarded (published in Cairo 1322 AH); *K. Adab al-qāḍī* on the duties of judges (ed. Farhat J. Ziadeh, published by the American University in Cairo); *K. al-Nafaqāt* on duties related to expenditures (published in Hyderabad, 1349 AH); and a work on legal artifices called *K. al-Ḥiyal wa-l-makhārij* (Hanover, 1923).

*Abū Jaʿfar Aḥmad al-Ṭaḥāwī* (d. 321). He left the Shāfiʿī *madhhab* for the Ḥanafī one early in life. His commentaries on al-Shaybānī's *al-Jāmiʿ al-kabīr* and *al-Jāmiʿ al-ṣaghīr* were very famous and frequently referred to in sources, though now lost and so far not recovered. However, his *Mukhtaṣar fī al-fiqh* and *Ikhtilaf al-fuqahāʾ* are published. *Al-Shurūṭ al-kabīr*, *al-Shurūṭ al-awsaṭ*, and *al-Shurūṭ al-ṣaghīr* make up his most enduring contribution in the area of practical law. His *Sharḥ Mushkil al-āthār* and *Sharḥ Maʿānī al-āthār* are important and widely admired works, the latter especially for the way it explains the *ḥadīth*s used in

Ḥanafī legal arguments, notably those *ḥadīth*s that others have considered questionable.

*Abū l-Layth Naṣr ibn Muḥammad al-Samarqandī* (d. 373), author of the well-known works on *fiqh*: *Fatāwā al-nawāzil*, *Khizānat al-fiqh wa-ʿuyūn al-masāʾil*, *Mukhtalif al-riwāyah* and *al-Muqaddimah fī al-ṣalāh*.

*Abū l-Ḥusayn Aḥmad ibn Muḥammad al-Qudūrī* (d. 428). Ever since he wrote it, al-Qudūrī's *Mukhtaṣar* has served as the standard concise text of the Ḥanafī school, like the *Risālah* of al-Qayrawānī among the Mālikīs, and among Shāfiʿīs al-Muzanī's *Mukhtaṣar*. It generated many commentaries, notably *al-Jawharah al-nayyirah* of Abū Bakr ibn ʿAlī al-ʿAbbādī, and *al-Lubāb fī sharḥ al-Kitāb* of ʿAbd al-Ghanī al-Maydānī. Al-Qudūrī also wrote *Kitāb al-Tajrīd* on the differences between Abū Ḥanīfah and al-Shāfiʿī without, however, going into the reasons for their different rulings.

*Abū Bakr Muḥammad al-Sarakhsī* (d. 482). In his *Mabsūṭ*, a commentary on *al-Kāfī*, a summary of al-Shaybānī's works by al-Ḥākim al-Shahīd (d. 334), al-Sarakhsī re-presents the writings of al-Shaybānī. He dictated *al-Mabsūṭ* in 15 volumes from his prison in Uzjand. His dictation of such a complicated and detailed work of law is, without doubt, strong proof of al-Sarakhsī's expertise in the field. The work is published, and there are internal evidences that it was dictated while he was in the prison. Among his other works are: *Sharḥ al-Siyar al-kabīr* and *Sharḥ Mukhtaṣar al-Ṭaḥāwī*.

After al-Sarakhsī, the tendency increased for systematizing and reorganizing the Ḥanafī law works. ʿAlāʾ al-Dīn Abū Bakr al-Samarqandī (d. 538)'s *Tuḥfat al-fuqahāʾ* (Beirut: Dār al-Fikr, 1422/2002) is the first major work which demonstrates this vigorous effort to organize the material. It was followed by the well-known commentary on it, *Badāʾiʿ al-ṣanāʾiʿ fī tartīb al-sharāʾiʿ*, by Abū Bakr ibn Masʿūd al-Kāsānī (d. 587). In many ways, al-Kāsānī's detailed commentary on the *Tuḥfah* of al-Samarqandī, is the more scholarly of the two, supporting every juristic ruling with evidence from original sources, and also explaining the

rationale and wisdom behind the law. In sum, it is one of the best, if not the best, work to train scholars in the Ḥanafī juristic tradition, and familiarize them with its order and coherence.

Burhan al-Dīn ʿAlī al Marghīnānī (d. 593)'s *Hidayah*, a commentary on his own *Kitāb Bidāyat al-mubtadī*, based on al-Qudūrī's *Mukhtaṣar* and al-Shaybānī's *al-Jāmiʿ al-ṣaghīr*, is perhaps the most read work among teachers and students of the Ḥanafī *madhhab*. He began an eight-volume commentary on this compendium, *Kifāyat al-muntahī*. But before he had completed it, he decided it was too diffuse and completed a second commentary, the celebrated *Hidāyah*. Later writers repeatedly edited, annotated, and produced commentaries on, the *Hidāyah*. Among the famous commentaries are: *Sharḥ al-ʿināyah ʿalā l-Hidāyah* by Akmal al-Dīn Muḥammad al-Bābartī (d. 786) and *Fatḥ al-Qadīr* by Kamāl al-Dīn Muḥammad ibn al-Humām (d. 861). The major failing noted of the *Hidāyah* is that it contains many weak *ḥadīth*s, and even misquotes some *ḥadīth*s and *āthār*. In that respect al Kāsānī's *Badaʾiʿ* is far better.

Most of the works produced after *Hidāyah* lack originality: they merely summarize or rearrange the material in earlier works. Among these later works two that earned considerable popularity are: *Kitāb al-Ikhtiyār li taʿlīl al-mukhtār* of Abū l-Faḍl al-Mawṣilī (d. 683); the *Kanz al-daqāʾiq* of Abū l-Barakāt al-Nasafī (d. 710), which had many commentaries, e.g. *Tabyīn al-ḥaqāʾiq* by Fakhr al-Dīn ʿUthmān al Zaylaʿī (d. 743), and *al-Baḥr al-rāʾiq* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1997) by Ibn Nujaym (d. 970) – the same Ibn Nujaym who wrote *Kitāb al-Ashbāh wa-l-naẓāʾir* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1413/ 1993), a treatise on the systematic structure of positive law.

The *Durar al-ḥukkām* of Mullā Khusraw Muḥammad (d. 885), a commentary on his own *Ghurar al-aḥkām*, gained particular authority in the Ottoman empire. So too did *Multaqā al-abḥur* of Burhān al-Dīn Ibrāhīm al-Ḥalabī (d. 956), famed for its reliability. Popular commentaries on it are *Majmaʿ al-anhur* by Shaykhzāde ʿAbd al-Raḥmān ibn Muḥammad (d. 1078), and *al-Durr al-muntaqā* by ʿAlāʾ al-Dīn al-

Ḥaṣkafī (d. 1088). Al-Ḥaṣkafī also compiled *al-Durr al-mukhtār*, which was well served by two successful commentaries – one by Aḥmad ibn Muḥammad al-Ṭaḥṭāwī (d. 1231), called *Ḥāshiyah ʿalā l-Durr al-mukhtār*, the other by the famous Ibn ʿĀbidīn (d. 1252) called *Radd al-mukhtār* (published in Damascus, 1421/2000) and better known as the *Ḥāshiyah Ibn ʿĀbidīn*. Because this work so conveniently brings together in one place many details that cannot be found in any other single work, this *Ḥāshiyah* became the principal reference for later jurists in Syria and India, and by saving them intellectual labour encouraged indolence. The most recent exposition of the Ḥanafī doctrine in the traditional style is the *Hukuki islāmiyye ve istilahati fikhiyye kamusu* by Ömer Nasuhi Bilmen, muftī of Istanbul.

After the *Hidāyah*, the most authoritative handbook of Ḥanafī doctrine in India, has been the *Fatāwā al-ʿĀlamgīriyyah*. Despite its title, this is not a collection of fatwās but a voluminous compilation of extracts from the authoritative works of the school, compiled by a team of senior jurists on the order of the Mughal emperor Awrangzeb ʿĀlamgīr (1067–1118). After Ibn ʿĀbidīn's *Ḥāshiyah*, it serves Indian muftīs as the main source for fatwās – they depend heavily on it.

Among the well-known authentic collections of Ḥanafī fatwās are those of Burhān al-Dīn ibn Māzah (d. *ca.* 570), called *Dhakhīrat al-fatāwā*, the *Fatāwā* of Qāḍī Khān Fakhr al-Dīn al-Ḥasan al-Farghānī (d. 592), the *Fatāwā* of Sirāj al-Dīn Abū Ṭāhir Muḥammad al-Sajāwandī (6th c., and the author of *Matn al-Sirājiyyah*, a very popular treatise on the law of inheritance), *al-Fatāwā al-Tātārkhāniyyah* of ʿĀlim ibn al-ʿAlāʾ (d. 786), *al-Fatāwā al-Bazzāziyyah* (published in the margins of *Fatāwā al-ʿĀlamgīriyyah*) of Ḥāfiẓ al-Dīn al-Bazzāzī al-Kardarī (d. 819), the *Fatāwā* of Abū l-Saʿūd (d. 982), and *Fatāwā al-Anqirawī* of Muḥammad ibn Ḥusayn al-Anqirawī (d. 1098).

## THE DEVELOPMENT OF *UṢŪL AL-FIQH* IN THE ḤANAFĪ SCHOOL

The diffusion of Abū Ḥanīfah's *fiqh* was surely accompanied by the diffusion and wider acceptance of his methods. Although there is no work on *uṣūl al-fiqh* attributed to Abū Ḥanīfah, his thinking and teaching were too consistent for him not to have had a clear sense of the legal theory. It seems inconceivable that, while discussing legal issues with his students, he would not have instructed them in the principles that he and his Kufan predecessors had been following. Muḥammad al-Shaybānī, in addition to texts of practical law, appears to have written a number of short treatises on topics of legal theory – *Kitab Ijtihād al-ra'y*, *K. al-Istiḥsān*, and *K. Uṣūl al-fiqh* are attributed to him in the *Fihrist*. The classical works on *uṣūl al-fiqh* often draw attention to the arguments of al-Shaybānī, which confirms the impression that he was a theorist of *fiqh*.

Ibn Khaldūn (d. 780) in his great *Muqaddimah* famously distinguished the abstractness of the *uṣūl* of the theologians from the practice-based *uṣūl* of jurists. The jurists' tradition, which is essentially the Ḥanafīs' tradition, focused on legal rulings and the discovery of rules underlying them, and almost certainly grew out of polemical defence of principles known initially through practice. Ibn Khaldūn picked out ʿAbdullāh ibn ʿUmar al-Dabūsī (d. 430), a Ḥanafī jurist, as the most important early writer in this tradition. Al-Dabūsī is the first to write on the science of differences. His greatest work is *al-Asrar*, and he also compiled *al-Naẓar fī l-fatāwā*.

Among other well-known Ḥanafī works on *uṣūl* are: ʿUbaydullāh Abū l-Ḥasan al-Karkhī's (d. 340) *Risālah fī l-uṣūl*, Abū Bakr Aḥmad ibn ʿAlī al-Jaṣṣaṣ al-Rāzī's (d. 370) *al-Fuṣul fī l-uṣūl* (Kuwait, 1408/1988), Abū Zayd al-Dabūsī's (d. 430) *Ta'sīs al-naẓar*, ʿAlī ibn Muḥammad al-Bazdawī's (d. 482) *Kanz al-wuṣūl ila maʿrifat al-uṣūl* and the famous

commentary on it by ʿAbd al-ʿAzīz al-Bukhārī (d. 730) known as *Kashf al-asrār*; Abū Bakr al-Sarakhsī's (d. 483) *Kitāb al-Uṣūl* (Beirut: Dār Ṣādir, 1415/1995); Abū Bakr ʿAlāʾ al Dīn al-Samarqandī's (d. 538) *Mīzān al uṣūl fī nataʾij al-ʿuqūl* (Qatar: Maṭābiʿ al-Dawhah al-Ḥadīthah, 1404/1984); Abu l-Barakāt al Nasafī's (d. 710) *Manār al-anwār* and his own commentary on it called *Kashf al-asrār*; ʿUbaydullāh ibn Masʿūd al-Maḥbūbī's (d. 747, known as Ṣadr al-Sharīʿah al-Thānī) *al-Tawḍīḥ ʿalā l-tanqīḥ*, on which the famous Shāfiʿī author and well-known teacher Masʿūd ibn Saʿd al-Taftāzānī (d. 792) wrote the commentary *al-Talwīḥ*; Kamal al-Dīn Muḥammad ibn al-Humam's (d. 861) *al-Taḥrīr fī uṣūl al-fiqh: al-Jāmiʿ bayna iṣṭilāḥay al-ḥanafiyyah wa-l shāfiʿiyyah*, on which Ibn Amīr al-Ḥajj (d. 879) wrote the commentary *al-Taqrīr wa-l-taḥbīr*; Mullā Khusraw Muḥammad's (d. 885) *Mirqāt al-wuṣūl ilā ʿilm al-uṣūl* (Istanbul, 1309); Ibn Nujaym's (d. 970) *Fatḥ al-ghaffār bi-sharḥ Manār al-anwār* (Cairo: Muṣṭafa al-Ḥalabī, 1936); Amīr Bādshah Muḥammad Amīn's (d. 987) *Taysīr al taḥrīr*; ʿAlāʾ al Dīn al-Ḥaṣkafī's *Ifāḍat al-anwār*; Mullā Muḥibbullāh ibn ʿAbd al-Shakūr Bihārī's (d. 1119) *Musllam al-thubut*, on which Mulla ʿAbd al-ʿAlī Baḥr al-ʿUlūm (d. 1180) wrote the commentary, *Fawātiḥ al-raḥamūt* (Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, 1414/1993). Besides these important works there have been some concise works based upon them, which were very often part of the curriculum. One of these famous concise texts is *Uṣūl al-Shāshī* by Niẓām al-Dīn al-Shāshī of the seventh century, recently presented in a new edition (Beirut: Dar al-Gharb al Islāmī, 2000).

More generally also, not just in the field of *uṣūl al-fiqh*, Ḥanafī scholars of later centuries tended to systematize and consolidate, with sharper, more sophisticated ('professional') legal exposition, but also more narrow in range and depth of thought. Perhaps al-ʿAynī (d. 855, the author of *al-ʿInāyah*) and Ibn al-Humām (d. 861, the author of *Fatḥ al-qadīr*) were the last two great jurists in the Ḥanafī school with a mind for *ijtihād*. Though we still find Ḥanafī jurists in later times

engaged in open scholarly discussion to work out responses to the new situations they faced, the level of *ijtihād* declined.

## THE MODERN PERIOD

From the eighteenth century onwards, as the European powers established themselves round the world, the Islamic societies (indeed all societies everywhere) suffered severe decline, losing commercial and military power, and political independence. It is in the nature of European dominance that loss of political power necessarily led to loss of meaningful cultural independence and identity. However, as I said earlier, the Islamic world by this time was already lacking political unity, the governing elites showed little solidarity either among themselves or with the people they governed, and the culture of the law which held the Islamic world together, had lost much of its early dynamic and intellectual energy. It is therefore unsurprising that, despite long resistance from the mass of Muslims, European pressures for change in Islamic law succeeded in considerable measure. Indeed, the internal failures and weaknesses of the Islamic world may have contributed as much to its decline as the cultural or military strength of the Europeans or their predatory attitude to non-European peoples.

In 1877 Ottoman Turkey enacted a codification of the law of contracts and obligations and of civil procedure, according to Ḥanafī doctrine, as the Ottoman Civil Code, known as *Majallat al-Aḥkām al-ʿadliyyah* or the Mejelle (Beirut: Dār Ibn Ḥazm, 2004). It was meant as a modernization of Islamic legal practice. In Egypt, about the same time, Muḥammad Qadrī Pasha put the Ḥanafī law of family and inheritance, of property, and *waqf*, into the form of codes.

Since the ending of the caliphate (1924), and the long era of direct and indirect colonization and modernization of the Islamic world, Islamic law has been, in general practice, confined to religious rites and personal affairs. Nevertheless traditional schools of Ḥanafī law in

Syria, Iraq, Turkey and the Indian subcontinent have clung on. In those narrow domains where they can apply it, the scholars have kept the tradition alive by adhering strictly to the rulings of the late Ḥanafī jurists.

## POSTSCRIPT

The question inevitably arises of what future is possible for Ḥanafī *fiqh*. In some sense the recent history that Islamic societies have endured has wiped the slate for them, as if to enable a fresh beginning. The modern Western model of law and order within nation-states is bound to have some attraction, given its short-term success as measured in wealth and power. Also, the model is bound to project a certain inevitability, given the confidence that enables victors to write the history of the vanquished for them so that, their past having been framed in a particular way, their future may be framed for them also. But there is no consistent evidence that the great majority of Muslims are ready to renounce their responsibilities as Muslims, to give up on the duty to establish a social order attuned to the Qurʾān and Sunnah. Rather, the evidence tends the other way – an intensifying impatience with the erosion of the Muslims' religious and cultural traditions, alongside a fragmented, fitful, mostly ineffectual, militancy aimed at 'the West' or 'Westernized Muslim elites' as the perceived agents of that erosion.

Why the Muslims should be motivated to cling to their old ways, when so many other traditional societies have let themselves yield to the proclaimed inevitability of modernization, is beyond the scope of this essay. So too, the reasons for Muslim perceptions of 'the West' and attitudes to its culture (positive or negative) are beyond the scope of this essay. But reflection on Abū Ḥanīfah's *fiqh*, his understanding of Qurʾān and Sunnah as law, on how and why it achieved such authority, is directly relevant to what Muslims, committed to the restoration

of their heritage, should be concerned with. A simple but nonetheless true formulation is that Abū Ḥanīfah perceived the law as a whole, not in its parts. Even in the centuries of relative intellectual decline, when the *fiqh* was only presented more systematically, with more thoroughness and concision, more rigorous logic of argument – because it was presented with reference to itself rather than to its sources – even then, the law retained its wholeness. Islamic jurisprudence did not separate politics, ethics and economics: jurists were expected to know and give rulings in all these areas and, however ineffectively at times, they tried to do so. Similarly, even when the political unity of the Islamic world was little better than a formality, it did not split up into nation-states. That is a modern development, owed to Western interventions and influence, and (except perhaps in Turkey) not yet well rooted.

At the present time Muslims find themselves in a world deeply penetrated by modern Western ideas and practices about how collective life should be ordered. These ideas and practices are oriented to efficiency, measured as increase in the wealth and power of competing individuals and states: co-operation among individuals or states is not an end but a means that rational people make use of, and should be trusted to make use of, in line with their self-interest. In the traditional Islamic perspective, by contrast, people are viewed primarily as moral agents (and only secondarily as economic or political agents), and the goal of collective endeavour is to create a social environment in which people can become good or better. Apart from the minimal biological needs and appetites, what people have a mind to want is a social construct, not an individual one. Accordingly, what society deems to be good, even if the individual does not agree that it is good, has a powerful affect: the moral environment is relevant to the individual's ability to sustain aspirations and develop tastes. Society does not fully determine the moral goods that accrue to an individual life lived within it, but the dependency is very strong. One cannot build an

Islamic social order that formally separates ethics, economics and politics, and gives free rein to private and national self-interest. In the Islamic tradition, jurisprudence is meant to harmonize ethics, economics and politics and resist their separation and professionalization.

Islamic jurisprudence entails reasoning, the procedures and limits of which are practically the same as in the Western tradition. However, in sharp contrast to the latter, the Islamic tradition regards human reason if untethered from divine guidance as inadequate to achieve humanity's best interests in the long term, that is, when all the downstream effects (on other peoples, later generations, etc.) are calculated. The differences among the pioneers of Islamic law are negligible on this point. All of them were committed to understanding the Qur'ān and Sunnah as law, a great part of which always had to do with faith and religious rites and moral values. The law was not concerned only with protecting the rights of property, enforcing contracts, and handling disputes between individuals or communities. Muslims remain keenly aware of this heritage. The core duties embodied in the Islamic rites – the regular prayers and fasting, the sense of international belonging nurtured by the obligation of pilgrimage even if not discharged, the duty of charity embodied in the alms-tax even if collected and distributed haphazardly – make it very difficult for Muslims to lose altogether the personal and social habits that come with that heritage. But the manners and relationships built around those habits are eroding, because such relationships are also built around economic transactions and mobility, which, under powerful Western influence (albeit, arguably, sometimes benign in formal intent) are changing too quickly to allow for the necessary adjustments.

The threat to the Islamic way of life is sincerely felt and increasingly resisted. That resistance needs to be intelligent, consistent and constructive if it is to provide effective restoration of the heritage. Those are precisely the qualities that characterize the *fiqh* of Abū Ḥanīfah. Let me now restate his contribution to the development of

Islamic law. First and foremost he understood the law to be an extension and application of Qur'an and Sunnah *as a whole*. He recognized the explicit injunctions, notably those related to the rites just mentioned, as beyond the reach of reason. Such injunctions are to be enforced in letter and spirit, amending only in the circumstances specified by the Qur'ān or by the Prophet. For most other matters, the purpose of the law is to achieve the good of society and to prevent harm from it. Because social, economic and political conditions vary with place and time, that purpose cannot be realized unless the rationale for particular rulings is fully understood. If the rationale is fully understood existing rulings can be justly amended, should the need arise, as it is bound to do. If it is not, rulings will contradict each other as circumstances change, priorities will become confused, more harm will result than good, possibly even injustice. Eventually, because reality is strong and cannot be ignored, the rulings will become divorced from the needs of the people, and the effort of jurisprudence will become marginalized – a self-contained discourse that is, in the negative sense, an academic exercise.

To illustrate what kind of flexibility is needed, consider a concrete example: the issue of awarding custody of children of divorced parents. The reason for normally giving custody of a child beyond the years of infancy, to the father, in preference to the mother, was that in the society of the time a boy learnt his occupation from the father and he might not do so if separated from him; for girls the fear was that, when the mother remarried, the girl's life might be complicated by the stepfather. A higher priority for either boy or girl was that they should get an Islamic upbringing: a reasonable suspicion that one parent was not reliable in this respect would necessarily give the other parent a better right to custody. Overall, the underlying concern was the long-term welfare of the child, not the immediate emotional needs of the parents. If that is borne in mind, then when social conditions change – if, for example, the father is no longer the

normal means of a son's learning how to make his way in the world – the custody decision can take the changes into account. To fail to do so is potentially an injustice. On the other hand, to change the preferences for awarding custody simply in order to bring them into line with Western norms, because those norms proclaim themselves to be more compassionate, would be to betray the Islamic tradition and, in the case of (for example) nomadic societies where boys still go out under the protection of their fathers to learn how to tend their livestock, might result in injustice. As this example shows, in order to remain consistent with the purpose of the ruling, it is necessary to be flexible with it.

Flexibility within the law does not endanger authenticity of the legal heritage of Islam if, as in the method and practice of Abū Ḥanīfah, it is exercised within the framework of Qur'ān and Sunnah and the limits and forms envisaged therein. Human beings are meant to be morally responsible, to be moral agents: Qur'ān and Sunnah together provide the enabling guidance. The greatness of Abū Ḥanīfah lay in his willingness to use that guidance to clarify the framework, the limits and forms, within which Muslims may safely and faithfully interpret that guidance as law. He did so by seeking an ideal balance between the spirit and the letter of the source texts of the law. As the summary charts show (see above, pp. 32, 36, 96, 100), there is a direct line from the major Companions of the Prophet, through Abū Ḥanīfah and his students, to the principal compilations of *ḥadīth* (which record the Sunnah) and to the principal schools of *fiqh* (which express the Sunnah as law). In other words, Abū Ḥanīfah's moral and intellectual courage as a pioneer in *fiqh* – which includes the humanity and flexibility of his thinking, as well as its rigorous discipline – was not a turning of the sources of Islam into some new direction. On the contrary, it was the realization and fulfillment of their potential, the proper, direct expression and embodiment of the Islamic tradition.

Abū Ḥanīfah spent a lifetime schooling his heart and mind to interpret Qur'ān and Sunnah in order to serve the needs of the society of his time. Reliable people have testified that he often spent his nights in prayer, trembling for fear of God's displeasure. As well as his heart's strength in clearly and fully realizing the burden of responsibility he took on, it is his faith that God would enable him to discharge it, and his hope of God's forgiveness where he erred or failed, that earned him the admiration of people and the title *al-imām al-a'ẓam*, the greatest of those worthy to be followed. The Muslims' debt to him, whatever school of law they adhere to, is incalculable. May God be pleased with him.

6

# Sources and Further reading

## SOURCES

In preparing this essay I have relied on the original Arabic sources. Among the earliest reflections on Abū Ḥanīfah are those found in Muḥammad b. Ismāʿīl al-Bukhārī's (d. 256) *al-Taʾrīkh al-ṣaghīr* and *al-Taʾrīkh al-kabīr.* The notes about the man himself are very brief, but can be read with some benefit in conjunction with the information about Abū Ḥanīfah's teachers, students and other Kufan jurists, dispersed in different places in these two books. Al-Bukhārī's primary purpose in writing such notes is to indicate the reliability of the men mentioned as narrators of *ḥadīth.* Abū Ḥanīfah was not a narrator in the strict meaning of the word. That is why some *ḥadīth* specialists like al-Bukhārī found him wanting. Another major early source with a biographical notice on Abū Ḥanīfah, again done by the criteria of *ḥadīth* specialists, is Abū Muḥammad ʿAbd al-Raḥmān ibn Abī Ḥātim's (d. 327) *al-Jarḥ wa al-taʿdīl.* Ibn Abī Ḥātim added to the material in al-Bukhārī what he heard from Abū Ḥātim, his father, and Abū Zurʿah, his uncle, famous contemporaries of al-Bukhārī. He was able to provide a list much fuller than al-Bukhārī's of the teachers and students of

Abū Ḥanīfah. As noted earlier, there was a certain rivalry between *ḥadīth* and *fiqh* specialists, and some scholars allowed their judgements to be guided by it. Among the major teachers of al-Bukhārī, Abu Ḥātim and Abū Zurʿah were students of Abū Ḥanīfah who praised him highly. However, among their teachers were also those scholars, like al-Ḥumaydī (d. 219), Ismāʿīl b. ʿArʿarah and others, who let preference for their own speciality unbalance their judgement about those outside it. It is their opinions that most influenced al-Bukhārī, Abū Ḥatim and Abū Zurʿah, and the account of Abū Ḥanīfah in the writings of al-Bukhārī and of Ibn Abī Ḥātim suffers accordingly.

Ibn al-Nadīm (d. 380) gives a brief biography of Abū Ḥanīfah in his *Fihrist*. It is particularly useful in that it records the titles of books attributed to Abu Ḥanīfah and to his students Qāḍī Abu Yūsuf and Muḥammad al-Shaybānī.

The great historian Khaṭīb al-Baghdadī (d. 463) has written at length on Abū Ḥanīfah in his celebrated *Taʾrīkh Baghdād*. This is a major source for the life of Abū Ḥanīfah and people have always referred to it. However, Khaṭīb has included in his account some weak and also some fabricated anecdotes, which show Abū Ḥanīfah in a negative light. Khaṭīb appears, when recording these anecdotes, to have neglected to apply the source-critical methods familiar to him as a historian and *muḥaddith*. *Muḥaddithūn* of the stature of al-Dhahabī, Ibn Ḥajar and others have taken Khaṭīb strongly to task for this lapse. Al-Malik al-Muʿaẓẓam Abū l-Muẓaffar ʿIsā wrote a scholarly refutation in 621 AH named *al-Radd ʿalā Abī Bakr al-Khaṭīb al-Baghdādī*. Zāhid al-Kawtharī, a twentieth-century jurist, studied the biography of Abū Ḥanīfah in *Taʾrīkh Baghdād* and wrote a detailed refutation in *Taʾnīb al-Khaṭīb ʿalā ma sāqa-hu fī tarjamat Abī Ḥanīfah min al-akādhīb*. Al-Kawtharī's book has been well received by the scholarly community and he deserves our thanks for his conscientious labour.

Ibn ʿAbd al-Barr's (d. 463) *Kitāb al-Intiqāʾ fī faḍāʾil al- aʾimmat al-thalāthat al-fuqahāʾ* contains accounts of Abū Ḥanīfah, Mālik and al-

Shāfiʿī. The author is a great *muḥaddith* and expert in genealogy and history. This is a very good work, in which Ibn ʿAbd al-Barr has criticized those *muḥaddith*s who accused Abū Ḥanīfah of what he is innocent of.

A properly balanced account of the man's life and work can be read in Abū l-Ḥajjāj al-Mizzī's (d. 742) *Tahdhīb al-kamāl*; in al-Dhahabī's (d. 748) *Manaqib al-Imām Abu Ḥanīfah wa ṣāḥibay-hi Abī Yusuf wa Muḥammad ibn al-Ḥasan*, *Tadhkirat al-ḥuffāẓ*, *Siyar aʿlām al-nubalāʾ*, and *Taʾrīkh al-Islām*; and in Ibn Ḥajar al-ʿAsqalānī's (d. 851) *Tahdhīb al-tahdhīb*. I benefited from these works, especially from their lists of the teachers and students of Abū Ḥanīfah, their account of his contribution to *ḥadīth*, and the appreciation of him by contemporaries and masters of *rijāl*.

For the life of Abū Ḥanīfah, I have relied mainly on the works just mentioned. I am indebted to them also for my understanding of how *fiqh* developed and how Kufan *fiqh* differed from others. For detail of Abū Ḥanīfah's rulings, I relied on the *fiqh* works of the school – a survey of these was presented earlier (pp. 108–11), and some of them are also mentioned in the section below on 'Further reading'.

In preparing this work I did not benefit much at all from Western scholarship. There is nothing on the biography of Abū Ḥanīfah in Western sources except a short notice by Joseph Schacht in *Encyclopaedia of Islam* (Brill). In the same work, under the heading 'Ḥanafiyya', there is a good, concise survey of the development of Ḥanafi texts by Schacht and W. Heffening. There is passing mention of Abu Ḥanīfah in general studies by several Western scholars of the formative period of Islamic law. These studies strive, more or less, to explain away the Islamic inspiration and character of the law, building on the hypothesis (not always overtly stated) that scholars borrowed from Roman law or Jewish law or their antecedents in the Mediterranean world, and then added on a layer of Islamic colouring by adducing

references to source texts interpreted or fabricated for that purpose. This approach is unsustainable if it is, as it should be, tested against the available material as a whole. Of course there is similarity in the different legal orders that have obtained in the world. The common purpose of legal order is to assist in the administration of justice in human affairs and thereby maintain solidarity and mutuality among people despite the diversity of their means and their conflicting goals: there are bound to be some similarities in the legal forms and in the language developed in different cultures to achieve that common purpose. But to affirm that is very far indeed from affirming that Islamic law is 'borrowed' from its antecedents in that region of the world, with its Islamicity sprinkled on, after the event, as a sort of religious seasoning intended to please local tastes and thus secure legitimacy and general consent.

A serious scholarly effort to test that hypothesis could begin by studying the way the Islamic scholars evolved the legal rulings related to the *ʿibādāt* (the rites and obligations particular to Muslim forms of worship), then compare the methods and arguments the scholars used with those that they used when deriving laws for the regulation of matters unrelated to formal worship, the *muʿamalat*. There is no marked difference between the two: the scholars referred to the same or different texts within the same corpus of texts, then derived legal arguments in much the same way for the distinctively Islamic *ʿibādāt* and the less distinctively Islamic *muʿāmalāt*. As regards *ḥadīth*s, the corpus of relevant texts was not established during Abū Ḥanīfah's lifetime, although consensus on how to establish it was clearly emerging. Then, and intermittently ever since, scholars have disagreed about which *ḥadīth* texts, for a particular issue, are the reliable ones, which of those are more relevant than others, and about how their wording should be interpreted to define a ruling that Muslims should act upon. The detail of all these disagreements among scholars, who agreed or

disagreed with whom, when and why, were fully recorded by the scholars themselves.

The claim in Western scholarship that the source texts were distorted or fabricated to serve the scholars' purpose is on the face of it absurd. It requires a vast conspiracy among huge numbers of people over many generations. It requires that conspiracy to have been sustained in the absence of a central political institution empowered to determine religious or legal doctrine. It requires the conspiracy to have been kept hidden in the presence of well documented personal and doctrinal disagreements between individuals and groups, alongside the even better documented history of religious/political factionalism during the formative and subsequent periods. Finally, the claim requires the conspiracy to have been combined with a huge incompetence on the part of the scholars to amend or add to the source texts in a way that would serve their purpose. Modern textual critique of the scriptural texts of Christians and Jews has demonstrated 'layers' of human 'editing' in different periods, identified by the occurrence of concepts, idioms and social practices, and by allusions to historical incidents, that are datable with some certainty. We are required to believe that the 'editors' of the texts of Qur'ān and Sunnah were so incompetent that they could not even introduce into those texts wording that would decisively secure the way Muslims should divorce or divide inheritance, even the detail of how they should pray and when. Instead, the settled practice of different regions and epochs varied, albeit not in everything and not by much, and they continued, over many generations, to agree and disagree and record their consensus and their disagreements.

The traditional Muslim history of the evolution of *fiqh*, without the dubious benefits of Western revisionism, has the merit of economy in its explanation and greater efficacy in being able to make sense of the available material as a whole. (That is not to deny, what the Muslim tradition itself conscientiously records, that in interpretive

commentary on the Qurʾān and to meet the needs of preaching and inspiring people, some scholars allowed themselves to make use of, write down and so circulate, *ḥadīth*s that the *ḥadīth* specialists have shown to be extremely weak or even fabricated. But those are areas removed from *fiqh* and not directly relevant to the subject of this book.)

## FURTHER READING

### *Abū Ḥanīfah's life*

On the life of Abū Ḥanīfah, Shiblī Nuʿmanī's (d. 1914) *al-Nuʿmān* in Urdu has long been famous, often printed and translated, including into English. The first part of it is a detailed biography of Abū Ḥanīfah. Written a century ago, it relies on only a few of the original biographical sources. Shiblī's talent was perhaps more literary than scholarly; he lacked the eye of an expert critic of *ḥadīth* and has let into his work much information that is unreliable, along with many, obviously exaggerated anecdotes. Nevertheless, it is a good work to start with and I benefited from it in preparing this account of Abu Ḥanīfah.

A more developed biographical study is *Abū Ḥanīfah: ḥayātu-hu wa ʿaṣru-hu wa ārāʾu-hu wa fiqhu-hu* by the Egyptian scholar, Abū Zahrah Muḥammad. Shaykh Abū Zahrah is a well-known jurist and author of biographies of founders of all the major schools of the law. He is a better critic than Shiblī, and his work is more balanced. It too is available in English translation.

Another late, good biography, available only in its original Arabic, is Wahbī Sulaymān Ghāwūjī al-Albānī's *Abū Ḥanīfah al-Nuʿmān*. It deals in a balanced way with the time of Abū Ḥanīfah, the rivalry between the people of *ḥadīth* and *fiqh*. It gives due prominence to Abū Ḥanīfah's contribution to *fiqh* but, in explaining its distinguishing features, it does not add much to Shiblī's work.

*Abū Ḥanīfah's* fiqh

The second part of Shiblī's book's deals with the *fiqh* of Abū Ḥanīfah. There is a lot of good material in it, but Shiblī seems to me too keen to present Abū Ḥanīfah as a hero at the expense of undermining the contributions of other famous experts of *fiqh*. Also, while explaining the good characteristics of Abū Ḥanīfah's *fiqh*, Shiblī has attributed to it the virtues of Islamic *fiqh* in general. Abū Zahrah's study deals with Abū Ḥanīfah's distinctive contribution to *fiqh* more persuasively.

To appreciate Abū Ḥanīfah's achievement, one needs to study his *fiqh* directly. It is now mostly accessible in the compilations of his students, notably Qāḍī Abū Yūsuf and Muḥammad al-Shaybānī. From their works one can get a sense of what Abū Ḥanīfah received from his predecessors and what he added to their legacy. One learns also how Abū Ḥanīfah's mind worked on the original sources, how he dealt with opposing arguments, and how he applied analogy. More importantly, one learns how Abū Ḥanīfah reflected on the needs of his time and his response to those needs.

To understand how Abū Ḥanīfah's work was carried on and consolidated in the later period, the most useful books are al-Sarakhsī's *al-Mabsūṭ*, al-Marghīnānī's *Hidāyat al-fiqh* and al-Kāsānī's *Badāʾiʿ*. The last two are particularly well-organized, systematic expositions of Ḥanafī *fiqh*. They shed light on how Ḥanafīs of the later period dealt with the criticisms and objections raised against their *fiqh* by the experts of other schools, by specialists in *ḥadīth*, and also by experts in the 'rational' (*ʿaqlī*) sciences.

Muḥammad al-Shaybānī's *Kitāb al-Ḥujjah ʿalā ahl al-Madīnah* remains a most valuable, scholarly defence of Abū Ḥanīfah's *fiqh* against the objections of the scholars of Madinah and some of the *muḥaddithūn* of his time. The work strives to prove that the people of Iraq followed the Prophet's *sunnah*s more rigorously than the people of Madinah. Also worthwhile in this category of work is al-Ṭaḥāwī's *Sharḥ Maʿānī al-āthār*. By the time it was composed, the identification of the Sunnah with *ḥadīth*

texts had been established, as also more or less definitive compilations of the corpus of such texts. Al-Ṭaḥāwī vigorously defends the Ḥanafīs' reliance on *ḥadīths*.

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## Names of persons and groups[16]



[16] In the alphabetical arrangement of the entries in this and the following indexes, the Arabic definite article (*al-*) and the *ʿayn* (marked by ʿ ) are ignored; the longer vowels (marked as ā, ī, ū) and more strongly pronounced consonants (marked as ḍ, ḥ, ṣ, ṭ, ẓ), are ordered as the same characters unmarked.

## Keywords, concepts, topics

## Transliterated words and phrases

*takbīr*, magnificat, saying *Allāhu akbar*, 27

*taqlīd*, following, consolidating or refining legal precedents, not innovating, 103

*taṣriyah*, leaving an animal unmilked for several days so as to improve its weight before selling, 63

*tayammum*, symbolic or 'dry' ablution in the absence or impermissibility of water, 68

*ʿulamāʾ* (sing. *ʿālim*), scholars, learned in Islamic sciences, 12

*uṣūl al-fiqh*, foundational principles, methodology, of *fiqh* (q.v.), 6, 112

*wājib*, obligatory, 60

*wa mā kādū yafʿalun*, (from Qurʾanic verse, 2: 71) '[they did it] but they were on the point of not doing it, 6

*waqf*, charitable endowment, 114

*waraʿ*, awe, fearfulness of God, 51

*warrāqūn*, paper sellers, 14

*wilāʾ*, protection or allegiance extended by an individual or clan to outsiders, 22

*witr* (lit. 'odd'), formal prayer, after nightfall before first light, to make the number of *rakʿah*s (q.v.) prayed in a day odd, 75

*wuḍūʾ*, ablution, 44, 68, 71, 73

*zakāh*, obligatory tax on Muslims only, to purify their wealth, 5, 74

*zannī*, conjectural, speculative, 62

*zindīq*, heretic, 46

*zuhd*, self-denial, asceticism, 34

*ẓuhr*, noon prayer, 68

**Abū Ḥanīfah** Nuʿman ibn Thābit (d. 150/767) is one of the great pioneers in the history of Islamic Law. He was among the first to deploy the recognized methods of legal reasoning consistently, and to gather the judgements and rulings of his time into a systematic corpus. The *fiqh* that evolved from his style of reasoning, carried on by his brilliant students, became associated with his name. The Ḥanafi school is the one most widely followed among the world's Sunni Muslims. This study of Abū Ḥanīfah's life and legacy is based on the traditional sources. It includes a short survey of how Ḥanafi *fiqh* evolved in different regions of the Islamic world. It offers a clear reminder of the criteria and conditions traditionally applied before any ruling gained general acceptance.

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